

1 OSAGE NATION CONGRESS

2
3 5th Session of the 1st Congress

4
5 BILL NUMBER ONCA 08-27

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7 ENROLLED

8
9 September 25, 2008

10
11 SPONSOR: Raymond Red Corn

12
13 **An Act**

14 To govern the conduct of Osage Nation elections, including elections for Principal Chief, Assistant Principal Chief,
15 Congress, elections for the retention of Judges of the Osage Judiciary, and other elections required by law.

16
17 *Be it enacted by the Congress of the Osage Nation:*

18
19 OSAGE NATION ELECTION CODE

20
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95 **CHAPTER ONE - GENERAL PROVISIONS AND DEFINITIONS**

96 **SECTION 1.1. PURPOSE**

97 This Code is enacted pursuant to Section 2, Article XIII of the Osage Nation Constitution to
98 govern the conduct of Osage Nation elections, including elections for Principal Chief, Assistant
99 Principal Chief, Congress, elections for the retention of Judges of the Osage Judiciary, and other
100 elections required by law.

101 **SECTION 1.2. SEVERABILITY**

102 If any provision of this Code, or the application thereof, is held invalid, the remainder of
103 this Code, or other applications of such provision shall not be affected.

104 **SECTION 1.3. DEFINITIONS**

105 Definitions below shall be listed alphabetically. In this code, unless the context otherwise
106 requires:

- 107 A. **"ABSENTEE VOTER"** means a qualified voter who has successfully applied to
108 the Osage Nation Election Board for such status and is entitled to vote by
109 Absentee ballot according to prescribed rules.
- 110 B. **"BALLOT QUESTION"** means any issue to be decided by a vote of the Osage
111 people.
- 112 C. **"CONGRESS"** means the Congress of the Osage Nation.
- 113 D. **"CONSTITUTION"** means the Constitution of the Osage Nation signed May 6,
114 2006, and any adopted amendments.
- 115 E. **"DEPOSE"** means to make a statement or statements which are written down
116 and sworn to.
- 117 F. **"ELECTIONEER" or ELECTIONEERING"** means any of the following acts
118 performed by a candidate or a person working for a candidate or ballot issue:
 - 19 1. the posting or display of campaign signs; or

- 120 2. the display of symbols or letters intended to remind voters of a particular
21 candidate or position; or
- 122 3. the distribution of literature, cards, or any other item that could reasonably
123 be considered campaign-related; or
- 124 4. making any speech or sounds or playing any recordings that could
125 reasonably be considered campaign related; or
- 126 5. the continued occupation of any space on, or within 10 feet of, a paved
127 approach to the polling place for the purpose of greeting voters; or
- 128 6. any other work for a political candidate or a ballot issue with the intent to
129 solicit votes or other support for the political candidate or ballot issue.
- 130 G. **"ELECTION OFFICIAL"** means any person authorized by the Osage Nation
131 Election Board or the Election Supervisor to assist in the conduct of elections.
- 132 H. **"ELECTION SUPERVISOR" or "SUPERVISOR"** means the duly authorized
133 supervisor of elections who serves at the pleasure of the Osage Nation Election
134 Board.
35. I. **"ELECTORATE"** means all enrolled members of Osage Nation who have
136 attained the age of eighteen years.
- 137 J. **"FRAUD"** means intentionally interfering with supplies used to conduct an
138 election, in order to change a voter's vote, or to change the composition of the
139 official ballot or ballots, or to change the counting of the ballots, or to change the
140 certification of the results of an election.
- 141 K. **"GENERAL ELECTION"** means that election held on the first Monday in June
142 in 2010 and every even numbered year thereafter.
- 143 L. **"IMMEDIATE FAMILY"** means spouse, son, daughter, mother, father, sister,
144 or brother, grandparent or grandchild, aunt, uncle, niece or nephew or member of
145 the same household and includes those of the foregoing who are formally adopted
146 by court order.
- 147 M. **"KNOWINGLY"**, in reference to a violation of this Election Code, means
148 consciously and intentionally; however, it does not require any knowledge of the
149 unlawfulness of the act or admission.
- 150 N. **"MEMBER" or "ENROLLED MEMBER"** means an enrolled member of the
51 Osage Nation.

- 152 O. **"MONTH"** means a calendar month unless otherwise expressed.
- 153 P. **"OATH"** includes affirmation or declaration.
- 154 Q. **"OSAGE NATION ELECTION BOARD" or "BOARD"** means the three
155 member Board appointed by the Principal Chief with the advice and consent of
156 Congress to administer or oversee all elections of the Osage Nation.
- 157 R. **"OSAGE VOTER REGISTRY"** is a list of qualified voters maintained by the
158 Osage Nation Election Board that, when fully updated, is identical to a list of
159 members of the Osage Nation maintained by the Membership Department of the
160 Osage Nation who meet age requirements for voting and are not disqualified from
161 voting by Osage law.
162
- 163 S. **"PERSON"** includes a corporation, company, partnership, firm, association or
164 society, as well as a natural person. When the word "person" is used to designate
165 the party whose property may be the subject of a criminal or public offense, the
166 term includes the United States, the State of Oklahoma, the Osage Nation, which
167 may lawfully own any property, or a public or private corporation, or partnership
168 or association. When the word "person" is used to designate the violator or
169 offender of any law, it includes a corporation, partnership or any association of
170 persons.
- 171 T. **"POLL WATCHER" or "WATCHER"** means a person designated by a
172 candidate to observe the election process on the day of the election.
- 173 U. **"QUALIFIED VOTER"** means any enrolled member of the Osage Nation,
174 eighteen (18) years of age or older, whose name is found on the Osage Voter
175 Registry. The term "qualified voter" has the same meaning as "eligible voter,"
176 "registered voter," and "those entitled to vote" as those terms are used in the
177 Constitution.
- 178 V. **"REGISTERED MAIL"** includes certified mail.
- 179 W. **"RESIDE"** means to have a residence.
- 180 X. **"RESIDENCE"** means a person's place of abode where the person intends to
181 remain for an undetermined period, having no present intention of removal from
182 that place and to which, when he or she is absent, he or she intends to return.
- 183 Aa. **"RUNOFF ELECTION"** means an election held after a General or Special
184 Election where no candidate for the office of Principal Chief, Assistant Principal
185 Chief, or other office created by Osage law receives a majority of all votes cast
36 for such office.

- 187 Bb. **"SPECIAL ELECTION"** means an election held specifically to consider
188 rejection of a referred act of the Osage Congress, to consider the initiation of a
189 law brought forward by initiative petition, to consider recall an elected official, to
190 fill a vacant office, to consider a general referendum called by Proclamation of the
191 Principal Chief and approved by the Congress in session, or for any other purpose
192 provided by Osage law and not in conflict with the Osage Constitution.
- 193 Cc. **"SIGNATURE"** includes a mark, made by a person who cannot write, with his
194 or her name written near it, and witnessed by a person who writes his or her own
195 name as witness.
- 196 Dd. **"VILLAGE"** means the Grayhorse, Hominy or Pawhuska Indian Villages as
197 defined by the Allotment Act of 1906.
- 198 Ee. **"VILLAGE ELECTION"** means a biennial election for the Five-person
199 Committees for villages or other election deemed necessary by the village.
200
- 201 Ff. **"VILLAGE RESIDENT"** means any tribal member who lives in a residence
202 within the Grayhorse, Hominy, or Pawhuska Villages.
- 203 Gg. **"VILLAGE VOTER"** means a Village Resident residing in the Grayhorse,
204 Hominy or Pawhuska Villages that has attained the age of 18 years.
205

206 **CHAPTER TWO - SUPERVISORY BODIES**

207 **SECTION 2.1. OSAGE NATION ELECTION BOARD**

- 208 A. **Composition.** The Osage Nation Election Board (the "Board") shall be composed
209 of three (3) members and two (2) alternates, appointed by the Principal Chief with
210 the advice and consent of the Osage Congress. Board members and alternates
211 shall be members of the Osage Nation. Members of the Board shall be responsible
212 for administering all elections of the Osage Nation unless otherwise provided by
213 law. The Board shall serve from the day of appointment until March 1, 2011.
214 Subsequent terms shall be for four (4) years. The Principal Chief shall reaffirm or
215 appoint each position at the end of the term with the advice and consent of
216 Congress, and each Board Member shall continue to serve until such an
217 appointment is made.

218 In the event a Board Member position is vacated, the remaining Board member or
219 members shall select the replacement from the available alternates within 3
220 business days. The alternate may then serve as a Board Member for the balance of
221 the term.

222 The Board shall elect from its own membership a chairperson and vice-
223 chairperson. No elected official of the Osage Nation or any employee of the
224 Osage Nation or its business subsidiaries shall serve on the Board. No candidate
225 for office or person who is a member of the candidate's immediate family shall
226 serve on the Board. If a member of a Board member's immediate family files for
227 Osage Nation office, the Board member shall resign within 10 days of the closing
228 of the filing period.

229 **B. Authority and Responsibility**

230 The Board shall have the authority and responsibility to:

- 231 1. Promulgate rules and regulations, with Osage Congress approval, not
232 inconsistent with this Code, concerning any matter within its jurisdiction.
 - 233 a. Exception: the promulgation of rules and regulations governing the
234 election of the Osage Minerals Council.
 - 235 b. After approval by the Osage Congress, such rules and regulations
236 shall have the force and effect of law of the Osage Nation.
 - 237 c. The Board shall not implement any changes to such rules or
38 regulation less than 90 days before an election.
- 239 2. Review the qualifications and disqualify any candidate who does not meet
240 the qualifications established for that office by the Constitution or Osage
241 law.
- 242 3. Maintain the Osage Voter Registry, a list of qualified voters, for
243 conducting all elections other than Village and Minerals elections, for
244 referendum measures, the resolution of election disputes, and other uses
245 allowed by law.
- 246 4. Appoint and supervise election officials and provide them with proper
247 instructions and training for performing their duties.
- 248 5. Prepare, or cause to be prepared, the official ballot or ballots and be
249 responsible for their safekeeping.
- 250 6. Enforce this Election Code and rules and regulations promulgated
251 pursuant thereto.
- 252 7. Call a Special Election when, upon receipt and approval of petitions
53 certified by the Election Supervisor, such petitions have been approved by
254 the Board, provided such an election is not inconsistent with the

- 255 Constitution.
- 256 8. Obtain the services of an Election Supervisor of the Osage Nation Election
257 Board. The Election Supervisor will serve at the pleasure of the Osage
258 Nation Election Board.
- 259 9. Review and approve the titles, design and language of ballots.
- 260 10. Retrieve and store election records.
- 261 11. Be present at all times on any election day.

262 C. **Duties and Authority and Responsibilities of the Election Supervisor of the**
263 **Osage Nation Election Board**

- 264 1. The Election Supervisor of the Osage Nation Election Board shall be the
265 administrative officer and shall have general supervisory authority over
266 elections held by the Osage Nation. The Election Supervisor shall have the
267 authority to employ or contract for the services of an Assistant Election
268 Supervisor and such other employees as are necessary to perform the
269 duties related to Osage Nation elections. The Election Supervisor shall
270 also have the authority to terminate employees or contract employees of
71 the Osage Nation Election Board. The Election Supervisor shall employ or
272 contract the employment of a chief clerk and such other employees as are
273 necessary to perform the duties required. In the event a vacancy exists in
274 the office of the Election Supervisor, the Chairperson of the Board shall
275 have the authority to stand in the place of the Election Supervisor for the
276 purpose of employing necessary personnel. The Election Supervisor shall
277 be charged with the operational responsibilities of the Board, including,
278 but not limited to, supervision, defining job positions and responsibilities
279 of the employees, preparation of the annual budget, preparation and filing
280 of all reports, and the implementation of policy, findings and actions
281 lawfully prescribed or determined by the Board.
- 282 2. The Congress shall be required to appropriate adequate contingency
283 funding for temporary personnel in the event of the unexpected absence of
284 essential Board employees.
- 285 3. The Election Supervisor, after consultation with the Legislative Services
286 division of Congress or its equivalent, shall prepare ballot titles and
287 propositions summarizing proposed laws, accept and certify applications
288 of Initiative, Referendum and Recall, and prepare statements of purpose
289 and captions for amendments to the Constitution initiated by petition.
- 90 4. The Election Supervisor shall receive petitions for constitutional

291 amendments, recall petitions, initiative petitions, referendum petitions, and
292 other petitions as described in the Osage Constitution. Upon receipt, the
293 Election Supervisor shall promptly assess the validity of such petitions. If
294 said petitions are found valid and sufficient to meet the requirements of
295 Osage law and the Osage constitution, they shall be certified by the
296 Election Supervisor and submitted to the Board for approval within 5 days
297 of certification. The Election Supervisor shall be a contract position, and
298 shall serve for 6 months prior to a General Election and at other times as
299 necessary to fulfill the requirements of this Act.

301 SECTION 2.2. ELECTION COMMITTEE

302
303 A. **Composition** - At least one Election Committee shall be appointed by the Board
304 for each polling place. Each Election Committee shall consist of a Judge, one or
305 more Inspectors, and two or more Clerks as determined necessary by the Board,
306 and alternates as necessary. No elected official of the Osage Nation, candidate for
307 elected office, or immediate family member of an elected official or candidate
308 shall serve on an Election Committee.

309
310 B. **Authority and Responsibility** - Under the supervision of the Election Supervisor
311 of the Board, the Election Committees shall conduct elections at the voting
312 place(s) and shall be empowered to carry out and enforce all rules and regulations
313 promulgated and delegated by the Board, pursuant to Section 2.1, for the orderly
314 and fair conduct of all elections.

315 CHAPTER THREE - QUALIFICATION AND REGISTRATION OF VOTERS

316 SECTION 3.0. EXCLUSION

317 This section applies to all elections other than Village elections and Minerals Council
318 elections.

319 SECTION 3.1. ELIGIBILITY CRITERIA AND CONDITIONS

320 A. Any qualified voter shall be permitted to vote in Osage Nation elections.

321 B. Disqualifications: RESERVED.

322 SECTION 3.2. OSAGE VOTER REGISTRY

323 A. The Board shall maintain a permanent roll of qualified voters known as the Osage
324 Voter Registry, and shall regularly update such roll from Membership records of
325 the Osage Nation. The Osage Voter Registry shall include all enrolled members
26 of the Osage Nation eighteen (18) years of age or older who have been issued an

327 Osage Nation Membership card on or after October 9, 2002 bearing the signature
328 of a Principal Chief of the Osage Tribe or Nation. The frequency of updates shall
329 be increased in any period preceding an election in order to ensure the maximum
330 number of Osage citizens have the opportunity to vote.

331 B. For the purpose of distributing voter information, the Election Supervisor or other
332 authorized registrar has the authority to add members of the Osage Nation to the
333 Osage Voter Registry whose eighteenth (18th) birthday occurs less than 90 days
334 before the election.

335 C. The Osage Nation Election Board shall periodically examine the Osage Voter
336 Registry and add or remove the names of individuals as may be necessary to keep
337 the lists accurate.

338 **SECTION 3.3. AVAILABILITY OF THE OSAGE VOTER REGISTRY TO QUALIFIED**
339 **VOTERS**

340 A. In order to create a favorable environment in which Osage citizens may
341 effectively initiate law, repeal law by referendum, petition the Osage
342 Government, recall elected officials, organize political parties or engage in the
343 support or opposition of ballot issues, the Osage Voter Registry, including
344 mailing address information, shall be available to qualified voters, said
345 availability subject to Osage and Federal law.

346 B. A publication of lists or sublists of the Osage Voter Registry in digital and/or
347 printed medium shall be prepared by the Osage Nation Election Board at the
348 request of any qualified voter. The Osage Nation Election Board shall obtain a
349 signed agreement from each requester which limits the use of such lists and
350 sublists to political, non-commercial purposes. The Election Board shall ensure
351 that any use of such lists and sublists come from an identified source. Requests
352 may include sublists of the names and addresses of those who voted in a particular
353 election, or the names of those living in a particular region. The digital medium
354 shall be in a format or formats commonly used in commerce. The Election
355 Supervisor shall set nominal fees for services related to the provision of requested
356 information.

357 C. The Election Supervisor shall establish a Privacy Program. The purpose of such a
358 program shall be to offer qualified voters the option of having their names omitted
359 from the published lists provided under Section 3.3 (B). The Election Supervisor
360 shall develop an application, approval, and notification process for participation in
361 a Privacy Program, and shall ensure that all general information published by the
362 Board contains notice of the programs' availability.

363 D. The potential consequences of participation in a Privacy Program shall be listed
54 prominently on the application for inclusion in the program. Any list of

365 consequences shall include factual information on the inability to receive mailings
366 from those initiating petitions, recalls and referenda.

367 **CHAPTER FOUR - QUALIFICATION AND NOMINATION OF CANDIDATES**

368 **SECTION 4.1. QUALIFICATIONS FOR PRINCIPAL CHIEF AND ASSISTANT**
369 **PRINCIPAL CHIEF**

370
371 Any enrolled member of the Osage Nation, who is at least thirty-five (35) years of age on
372 the date of the election and has never been convicted of a felony, is eligible to become a
373 candidate for the office of Principal Chief or Assistant Principal Chief of the Osage Nation.
374

375 **SECTION 4.2. DISQUALIFICATIONS - EXECUTIVE**

376 The Principal Chief and the Assistant Principal Chief shall not hold any other office or
377 position of profit under the Osage Nation nor hold any office, be it elected or appointed, under
378 any other tribal government or any state, county, or federal government.
379

380 **SECTION 4.3. QUALIFICATIONS FOR OSAGE NATION CONGRESS**

381 Any enrolled member of the Osage Nation, who is at least twenty-five (25) years of age
382 on the date of the election and has never been convicted of a felony, is eligible to serve as a
383 member of the Osage Nation Congress.

384 **SECTION 4.4. DISQUALIFICATIONS - CONGRESS**

385 Members of the Osage Nation Congress shall not hold any other office or position of
386 profit under the Osage Nation during the term for which the member is elected or appointed. No
387 member of the Osage Nation Congress shall hold any other tribal office under another Indian
388 nation during his or her term of office. Candidates for Congress may also be disqualified by
389 other provisions of this code.
390

391
392 **SECTION 4.5. APPORTIONED DISTRICT REPRESENTATION**

393 **RESERVED.**

394 **SECTION 4.6. FILING DATES FOR PRINCIPAL CHIEF AND ASSISTANT**
395 **PRINCIPAL CHIEF**

396 An Osage citizen qualifying under Sections 4.1 and 4.2 of this code may file as a
397 candidate for Principal Chief or Assistant Principal Chief between March 15th and April 1st for
398 elections to be held in June of the same year.

400 **SECTION 4.7. FILING DATES FOR OSAGE NATION CONGRESS**

401 An Osage citizen qualifying under Sections 4.3 and 4.4 of this code may file as a
402 candidate for Osage Nation Congress between March 15th and April 1st for elections to be held
403 in June of the same year.

404 **SECTION 4.8. PROHIBITION AGAINST MULTIPLE CANDIDACIES AND HOLDING**
405 **MULTIPLE OFFICES**

406 A. No person may be registered as a candidate for more than one position in an
407 election.

408 B. No person may hold more than one elected position at one time.

409 **SECTION 4.9. ELIGIBILITY AND FILING DATES FOR JUDGES STANDING FOR**
410 **RETENTION**

411 A duly appointed or re-elected Judge in the Osage Nation Judiciary eligible for retention
412 pursuant to the requirements of Sections 3, 4, 6, & 7 of Article XIII of the Osage Constitution
413 may file for retention between March 15th and April 1st for elections to be held in June of the
414 same year. Candidates for retention may also be disqualified by other provisions of this code.

15 **SECTION 4.10. FILING FEES, SUBMISSION OF DECLARATION OF CANDIDACY**

416 The Board may set filing fees for candidates seeking office under this code, and include
417 such fees in any additional rules and regulations submitted to Congress for approval. Such fees
418 shall be reasonable and not inconsistent with fees charged in other local elections in the region.
419 All fees shall be deposited in the Osage Election Fund.

420 **SECTION 4.11. CERTIFICATION OF CANDIDATES- CONTEST OF CANDIDACY**

421 All persons found by the Osage Nation Election Board to meet all requirements for
422 candidacy shall be certified as a candidate by the Election Supervisor. Any contest of candidacy
423 shall be filed with the Osage Nation Election Board, and a public hearing shall be held to
424 determine the validity of said candidacy. Any such contest shall be filed within 3 business days
425 of the closing of the filing period, and a hearing on such a contest shall be held within 3 business
426 days of the contest's filing. The verdict of the Osage Nation Election Board shall be final. It
427 shall be the duty of the Election Supervisor to post the names of all filed candidates in a public
428 place within 48 hours of the closing of the filing period.

429 **SECTION 4.12. PREPARATION OF BALLOTS**

430 A. It shall be the responsibility of the Election Supervisor to prepare, or cause to be
'31 prepared, the ballots for each election. The printing of the ballots shall take place
,32 as soon as possible after all candidates have been certified by the Board. Paper

433 ballots upon which are printed the names of the candidates shall be used in the
434 tribal elections. The ballots shall be numbered consecutively.

435 B. An adequate supply of ballots plainly marked, "Sample Ballots", and printed on a
436 paper of different color from that of the ballots prepared for voting purposes shall
437 be distributed and shall be posted in public places in each precinct to acquaint
438 voters with the ballot and voting procedures.

439 C. The ballots shall utilize colors and symbols that will allow clear differentiation
440 between ballots for the Executive and Legislative positions and those of the
441 Minerals Council.

442 D. The order in which names appear on the ballot shall be determined by lot. The
443 meeting to draw lots shall be held on a weekday, holidays excepted, between the
444 hours of 9:00 AM and 7:00 PM. The Election Supervisor shall, in full view of
445 those present at the meeting, clearly write or print the name of each candidate for
446 a particular position (Chief, Congress, etc.) on separate pieces of paper measuring
447 equal size. There shall be a separate drawing for each office, and one for the
448 Congress. The names of the candidates shall be written or printed on the same
449 color or type of paper. The papers shall be folded in half one time so that the
450 names are not visible and shall be place into a container selected by the Election
451 Supervisor. The Election Supervisor shall draw one paper at a time, and the first
452 name drawn shall appear first on the ballot, the second drawn shall appear second
453 on the ballot, and so on until all names are drawn.

454 E. In the event a candidate appearing on the ballot dies after ballots are printed but
455 prior to the date of the election, the Election Supervisor shall post a notice of this
456 fact at the polling place(s). Votes cast for the deceased candidate shall not be
457 considered in the tally, and such votes shall be void.

458 CHAPTER FIVE - CONDUCT OF ELECTIONS

459 SECTION 5.1. VOTER REGISTRATION, ELECTION DATES

460 A. **Registration of Voters.** Voters are not required to register with the exception of
461 absentee voters who must apply to the Election Supervisor for absentee voter
462 status according to the provisions of the Code. Any qualified voter may vote in
463 any General or Special election upon;

464 B. **Voter Identification.** Any qualified voter may vote in any General or Special
465 election upon;

467 1. presentation of a government-issued photo ID, or

68 2. positive identification by two persons serving as election staff, provided

469 those persons sign an affidavit affirming the voter's identity.

470 The Board may approve other commonly accepted identification methods.

471 C. **General Election.** The General Election shall be held on the first Monday in June
472 in 2010 and every even numbered year thereafter.

473 D. **Special Election.** Special elections shall be called by the Principal Chief to fill a
474 vacancy as provided by Osage law or as required by Article XI, Section 8
475 (Recall), and Article XX (Constitutional Amendment).

476 E. **Oath of Office.** All elected officials shall take the oath of office, subscribe to
477 same, and assume the duties of their respective offices on the first Wednesday of
478 the first month after their election. Any elected official that fails to comply with
479 this provision on the assigned date shall not occupy the office to which they were
480 elected, and said office shall be considered vacant. Any person temporarily
481 incapacitated by accident or illness shall be exempted from this requirement until
482 that time they are able to assume the responsibilities of their elected position
483 unless otherwise provided by Osage law.

484 F. **Recall Elections.** Recall elections shall be held within 100 days of the
485 certification of the recall petition by the Election Supervisor. The date of the
486 election shall be set by the Board and shall constitute a Special Election.

487 **SECTION 5.2. ELECTION PROCEDURES - GENERAL**

488 A. **Voting places and hours; Election Notice.** Voting places shall be designated by
489 the Board, and shall be open during the hours of 8 a.m. to 8 p.m. Central Standard
490 Time on the day of the election. The Election Supervisor shall announce all
491 elections by Election Notice posted at least thirty (30) days before the election at
492 the voting places and other convenient public places. In addition, the Election
493 Supervisor shall mail an Election Notice to each Qualified Voter at his or her last
494 known address. The Election Notice shall set the time, date, and place or places
495 the election will be held, the qualifications required to vote, information on
496 obtaining absentee ballots, and clearly set forth all methods by which a voter may
497 obtain assistance in voting.

498 1. For the purpose of maximizing participation of Osage Nation citizens in
499 the democratic process, the Election Supervisor shall, in the interim period
500 between elections, use cost-effective media to encourage Osage citizens to
501 provide accurate mailing addresses in coordination with the Membership
502 department. The costs of such efforts shall be adequately funded by the
503 Osage Congress through the Osage Election Fund.

34 B. **Manner of voting generally.** Voting shall be by secret ballot. Except as

505 otherwise provided, any qualified voter may vote by appearing at the prescribed
506 voting place, announcing to election officials his or her name and address, signing
507 the ballot sign out sheet, and by marking and placing the ballot in the ballot box
508 or electronic vote counting device. The election officials may ask for proof of
509 identification before permitting the qualified voter to vote. Any eligible voter who
510 will be unable to vote in person may vote by absentee ballot as prescribed in
511 Section 5.3.

512 C. **Electioneering.** No person shall be allowed to electioneer within three hundred
513 (300) feet of the entrance to any polling location while an election is in progress,
514 nor shall any person, except election officials and other persons authorized by
515 law, be allowed to approach the ballot box while an election is in progress or
516 remain within 50 feet of the polling place except while actually voting. No written
517 or printed material other than that provided by the Election Board shall be
518 publicly placed or exposed on public or private property within three hundred
519 (300) feet of the entrance to any polling location while an election is in progress.
520 Signs shall be installed to clearly indicate the boundaries beyond which
521 electioneering may not occur, and the Osage Nation Police shall be authorized to
522 enforce electioneering provisions of this code. The Board may, with the approval
523 of Congress, establish additional policies on electioneering.

524 D. **Voting by person with physical disabilities or language barriers.** If a voter or
525 voter's agent presents himself and states that he or she, because of a physical
526 disability or language barrier, is unable to mark the ballot, assistance shall be
527 provided by at least two election officials.

528 E. **Poll watchers.** Candidates for the office of the Principal Chief, Assistant
529 Principal Chief, and each candidate for the Congress may submit the name of one
530 person as their respective designated watcher at each polling place. No candidate
531 for any elected office of the Osage Nation shall be a watcher. Watchers are
532 prohibited from conversing with voters and election officials and prohibited from
533 divulging any information as to the count prior to the announcement by the Board.
534 A watcher shall not return to the polling place after leaving. Any disruption by
535 watchers will be cause for their removal from the polling place. Poll watchers are
536 to remain only in designated areas. Watchers shall not receive compensation for
537 their services.

538 F. **Voting Violations.** A person is guilty of violation of this code who:

539 1. Knowingly votes more than once at any election; or

540 2. Not being entitled to vote, knowingly votes; or

541 3. Hinders the voting of others; or

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4. After having received a ballot as a voter, knowingly fails to cast the ballot or return the ballot to election officials before leaving the polling place or going outside the voting area; or
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5. Knowingly adds a ballot to those legally cast at any election by fraudulently introducing the ballot into the ballot box or mixing the ballot with other ballots lawfully cast while they are being canvassed or counted; or
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6. Knowingly detains, destroys, alters, or mutilates a ballot or election returns; or
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7. Intentionally disables or removes from the polling place or custody of an election official, a voting machine, ballot box, or voting record; or
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8. While at a voting location, refuses to obey a lawful order of an election official, or
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9. Fraudulently applies for or uses an Absentee ballot.

556 **G. Penalties.**

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1. Any person violating the provisions of Subsection 5.2C or 5.2F is guilty of a criminal offense, and upon conviction, shall be subject to a fine not to exceed one thousand dollars (\$1,000.00), or a term of imprisonment not to exceed three months, or both.
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2. Persons not subject to the criminal jurisdiction of the Osage Nation Court shall be subject to immediate exclusion from Osage Nation property.

563 **SECTION 5.3. ABSENTEE VOTING**

564 **A. Request for ballot, request for Absentee ballot application, status of ballots.**

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1. Any qualified voter shall be entitled to vote by absentee ballot, and may request an absentee ballot application by either coming in person to the office of the Election Supervisor, by sending a letter or electronic message to the Election Supervisor, or by facsimile. A person requesting an absentee ballot application shall identify himself or herself using the name under which he or she registered in the Osage Voter Registry. The Election Supervisor shall maintain a printable absentee ballot application form on the Osage Nation website. The absentee ballot application shall be the only form used to request an absentee ballot. A legible photocopy of a government-issued photo ID is required to be submitted with the absentee ballot application.

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2. The Election Supervisor shall establish rules regarding proper identification of absentee ballot applicants that sustain the integrity of the absentee voting process.
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3. The Election Supervisor shall maintain a record of all applications, together with a record of the names and addresses of all persons to whom absentee ballots are mailed or delivered, including the date of mailing or delivery.
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4. Absentee ballot applications shall be accepted until twenty (20) days prior to Election Day.
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5. All absentee ballot stubs shall be consecutively numbered. Ballots shall not be numbered.
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6. All absentee ballot applications and absentee ballots mailed to voters shall bear standard U.S. first class postage.
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7. Any eligible voter who receives an absentee ballot who does not complete and mail the ballot, but instead wishes to cast his or her vote in person, must first:
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- a. surrender his or her absentee ballot to the Election Supervisor or authorized designee on Election Day, or
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- b. sign an affidavit stating they received an absentee ballot but did not vote it.
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8. All absentee ballot applications shall be processed by Election Board staff.

597 **B. Status of ballots arriving after deadline.**

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1. All absentee ballots arriving at the Pawhuska, Oklahoma Post Office after the deadline set forth in this code but before 48 hours after that deadline has passed shall be retained and segregated from all other ballots. Such ballots shall not be opened, but shall be counted in number and considered provisional ballots, provided that the ballot bears a readable official U.S. postmark no later than the day prior to the election. Upon certification by the Election Supervisor that the number of provisional ballots matches or exceeds the number necessary to affect the outcome of any race or issue, the Election Supervisor may open the provisional ballots and verify them. Those ballots meeting all other absentee ballot criteria shall be counted toward vote totals.

610 The following absentee ballots shall be void:

611 a. ballots bearing postmarks later than one day before the election;
612 and

613 b. ballots arriving after deadline set forth in this code bearing
614 unreadable postmarks; and

615 c. ballots arriving after the 48 hour deadline.

616 C. **Delivery or mailing of documents to applicant** - Unless it is evident that the
617 applicant for an absentee ballot is not an eligible voter, the Election Supervisor
618 shall immediately cause the following documents to be delivered or mailed to
619 such applicant by standard U.S. first class mail, provided such mailing does not
620 occur more than 45 days before the election.

621 1. An official ballot for the proposed absentee voter shall be clearly marked
622 "Absentee Ballot".

623 2. An inside envelope labeled "For Absentee Ballot Only" for the ballot to be
624 put into after the voter has marked it.

625 3. An outside envelope, postage paid, shall bear a certificate to be signed by
626 the absentee voter. The address of the Osage Nation Election Board shall
627 be printed on its front.

628 4. The Election Supervisor shall supply printed instructions to absentee
629 voters substantially as follows:

630 a. Mark your ballot and place it in the white envelope marked "For
631 Absentee Ballot Only". Seal it.

632 b. Place the envelope marked "For Absentee Ballot Only" in the outer
633 certificate envelope. Seal it.

634 c. Sign the certificate on the outside envelope and mail. The ballot
635 must arrive in the Pawhuska, Oklahoma Post Office by 10 AM
636 local time the day of the election to be considered valid. Ballots
637 arriving after that time but postmarked no later than one day before
638 the election may be considered provisional ballots. Ballots arriving
639 with unsigned certificates will be considered void.

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641 D. **Ballot certificate; form.**
642 1. The following, or a substantially similar certification, shall be clearly
643 printed on the outside envelope:

644 Criminal penalties are provided by statute for knowingly
645 filing false information in such statements.

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647 (Purpose and date of the Election)
648 Certification: I have enclosed my ballot for the elections of the Osage
649 Nation.

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651 (VOTER'S SIGNATURE)
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653 E. **Receipt of voter's ballot** - The absentee ballots shall remain in a locked box in
654 the Pawhuska, Oklahoma Post Office until 10 AM on the date of election. At that
655 time the Election Supervisor, accompanied by the Osage Nation Police shall
656 receive the locked box from the Post Office and shall personally transport the
657 locked box to the polling place, where it shall be immediately delivered to the
658 Board. The Board shall retain all keys or other means of access to the locked box
659 during transport from the Post Office to the polling place.

660 F. **Retention of materials** - All material used for procuring and casting an absentee
661 ballot shall remain under the Board's control for a period of one (1) year after the
662 day of the election.
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664 G. **Research on voting technology** - The Election Supervisor, with approval of the
665 Board, may develop and implement methods which offer Absentee voters'
666 convenience and security and which take advantage of proven technological
667 developments designed to enhance participation in the voting process. Within one
668 year of the effective date of this code, the Election Supervisor shall deliver to
669 Congress a report on the potential of voting by computer. The report shall be
670 accompanied by recommendations from the Board regarding the implementation
671 of such technology.

672 **SECTION 5.4. COUNT AND RETURN OF VOTES - TIES**

673 A. With the exception of absentee ballots, the ballots cast shall be counted and tallied
674 by the Election Committee beginning at 8:00 p.m. Central Standard Time or
675 immediately after voting is completed on the day of the election. The Board shall
676 immediately prepare a consolidated return of the election results and post said
677 results at the election headquarters. The Election Supervisor may promulgate
78 other procedures as necessary to assure the prompt and accurate reporting of

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- B. After counting, all ballots shall be placed in ballot boxes, locked, marked with the date of the election by the Election Committee. All unused, spoiled or rejected ballots shall be labeled and placed in the ballot box. The locked ballot boxes containing all ballots shall be immediately returned by the Judge and at least one other precinct committee official to the Board.

- C. If at any General or Special Election no candidate for the office of Principal Chief or Assistant Principal Chief receives a majority of all votes cast for such office, the two candidates receiving the highest number of votes at such election shall be placed on the official ballot as candidates for a Runoff Election to be held on the third Monday of July in the same year.

- D. When a tie vote is certified in the election of any candidate, the Board shall, at a public meeting and in the presence of the candidates involved or their designee, if they or any of them desire to be present, select the successful candidate by lot. When a successful candidate is to be selected by lot pursuant to the provisions of this section, the following procedures shall be observed:
 - 1. The Election Supervisor shall, on or before the tenth day following the election, notify each of the tying candidates for which the vote was tied. The notice shall include the time, date and location of the selection, shall be made in writing by registered or certified mail and shall be postmarked not fewer than five (5) days prior to the meeting;
 - 2. The Election Supervisor shall, in full view of those present at the meeting, clearly write or print the name of each tied candidate on separate pieces of paper measuring approximately equal size. The names of the candidates shall be written or printed on the same color and type of paper. The papers shall be folded in half one time so that the written names are not visible and shall be placed into a container selected by the Election Supervisor;
 - 3. The Election Supervisor shall draw, or may designate a person other than the candidates, witnesses or other person directly interested in the election to draw, one paper, and the name of the candidate appearing on the first drawn paper shall be declared the winner. The secretary shall then expose the other name or names not drawn to all witnesses present; and
 - a. The meeting shall be held on a weekday, holidays excepted, between the hours of 9:00 a.m. and 7:00 p.m.
 - b. In the event a tie vote occurs in a ballot issue or the retention of a Judge, the tie shall be broken by lot, with a 'yes' or 'no' paper being drawn to determine the outcome.

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- c. When there are three (3) or more candidates and a tie for first place occurs, (or in the case of Congress, a tie for the sixth position in a General Election) the names shall be placed on the runoff ballot unless all tied candidates agree in writing to submit to the procedure for selection by lot outlined in this section.

- E. Following the election a statement is to be prepared by the Election Supervisor pertaining to the conduct of the election and certifying to the correct tabulation of the votes for each qualified candidate of the election. The statement shall also set forth the names of the elected candidates and the office to which each was elected. The statement shall be signed by all members of the Board in order to be valid. The statement shall be delivered to the Principal Chief.

- F. It shall be unlawful for any person to divulge the progress of the count until after all ballots have been counted and results of said count have been certified.

- G. The Board shall store the ballots in such a manner that will insure the safekeeping of said ballots for a period of one year.

SECTION 5.5 COUNTING ABSENTEE BALLOTS

- A. At 9:30 a.m. on the day of the election, the absentee workers shall meet to count absentee ballots in the manner herein after prescribed:
 - 1. Counting of absentee ballots shall commence at 10:00 a.m. at a secure location deemed appropriate by the Board.
 - 2. Upon delivery of the absentee ballots,
 - a. the signature located on the outside of each outer envelope shall be checked to ensure that it is the signature of the absentee voter, or
 - b. the outside of each outer envelope shall be checked to make sure the envelope bears a unique and predetermined barcode or other similar verification data.
 - 3. Each outer envelope shall be opened and separated from the inner envelope.
 - 4. The inner envelopes shall then be opened; the absentee ballots therein shall be removed and inserted into the electronic voting device designated to count absentee votes.

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5. In the event the electronic voting device does not successfully read the absentee ballot and where the ballot may be clearly read by the workers, the workers may enter the ballot information into the electronic voting device. Such determination will be made by two absentee workers who shall each read and verify the vote on each electronically unreadable ballot and call out the result to another worker who will then enter that data into the electronic voting device.
 6. After the polls close, the electronic voting device shall print the three totals tapes.
 7. After the tapes are finished printing, the Election Supervisor or and all Election Board members shall sign on the designated lines on the tapes and the tally sheet shall be completed. Three totals tape shall be printed. The Election Supervisor or designee shall sign each.
 8. As soon as possible after the polls close, the absentee voter count results shall be posted.
 9. Signed totals tapes, and outer and inner envelopes shall be placed in the absentee ballot box or boxes and the box shall be retained in a safe place until opened by order of the Election Board in the event a contest is filed. If no contest is filed, the ballots may be destroyed one (1) year after the election. No information concerning voting shall be posted or made public information until after 8 p.m. of the day of the election.
 10. The absentee workers shall complete the ballot accounting form and attach it to the original totals tapes and to the tally sheet and the said form, tapes, and tally sheet shall be placed in the elections return envelope for return to the Board.

796 **SECTION 5.6. RECOUNTS**

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- A. **Request for Recount** - Only candidates for office may ask for a recount and only for the office that he or she sought. A candidate requesting a recount shall file a written petition with the Chairperson of the Osage Nation Election Board. An advance fee to cover costs of the recount of Five Hundred Dollars (\$500) per polling location will be charged to the candidate requesting the recount, and must accompany the written petition. Payment shall be by cashier's check or money order only. No personal checks will be accepted. The time limit for filing a request for a recount shall be from the first calendar day following the Board's certification of election results and shall continue for three (3) consecutive calendar days. Recounts shall be conducted by the Osage Nation Election Board.
 - B. Recount candidates shall not be certified by the Board to the Principal Chief until

808 the recount is completed. The Board shall certify all other elected candidates not
809 affected by the results of a recount.

810 C. **Referendum Election.** Any qualified voter may request a recount, in such an
811 election, in accordance with Section 5.6B.

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813 **CHAPTER SIX - CHALLENGES TO ELECTION RESULTS**

814 **SECTION 6.1. WHO MAY CHALLENGE AN ELECTION RESULT**

815 Only a candidate, and no other person, may challenge the correctness of the announced
816 results of an election in which that candidate ran for elected office and then only for the office
817 that he or she sought. Any eligible voter, and no other person, may challenge the correctness of
818 the announced results of a referendum election. All challenges must strictly comply with all
819 applicable provisions of this Chapter.

820 **SECTION 6.2. GROUNDS FOR CHALLENGES**

821 A. **Allegations of Fraud.** An election result may be challenged on the basis of an
822 allegation of fraud if the candidate, or any person authorized to act for such
823 candidate, whose right to the office is contested, has given to a voter, election
824 judge or election clerk a bribe or reward, or has offered such bribe or reward for
825 the purpose of procuring his or her election. The act complained of must have
826 occurred at a polling location, or in the casting of an absentee vote. The complaint
827 must identify the specific polling location or other location, or if in the casting of
828 absentee ballots wherein such fraud occurred, the specific act constituting such
829 alleged fraud and the names of the alleged perpetrators of such fraud.

830 B. **Allegations of Irregularities other than Fraud.** An election result may be
831 challenged on the basis of an allegation of irregularities other than fraud if such
832 challenge alleges a sufficient number of irregularities and of such a nature that:

833 1. The outcome of the election would have been contrary to the reported
834 result; or

835 2. Proves that it is impossible to determine with mathematical certainty
836 which candidate is entitled to be certified as elected, or in an election
837 concerning a referendum, that the outcome of the election is impossible to
838 determine with mathematical certainty.

839 **SECTION 6.3. PROCEDURE FOR CHALLENGES**

840 A. Challenges must be filed in writing with the Osage Nation Election Board on the

841 complaint form provided by the Board within three (3) calendar days following
842 the election. The challenge must provide the necessary information required by
843 Section 6.2 and be accompanied by a cash bond of five hundred dollars (\$500.00).

844 B. Upon receipt of a challenge the Osage Nation Election Board shall review the
845 challenge for complete compliance with this Section and if in compliance, shall
846 forward the petition to the Chief Justice of the Osage Nation Court, or such other
847 judge as the Chief Justice may assign. The Board shall file a response or answer
848 on or before the hearing date set by the Court. The judge shall hear and determine
849 said issue without delay or continuance of more than five (5) days. On the day of
850 the hearing, the challenged candidate may file an answer to such petition or may
851 file a cross-petition, setting forth in detail, as required of a petitioner herein, such
852 cross claims of fraud. The decision of said judge shall be final as to any changes
853 in the total votes, and a copy of such judgment and decision shall be furnished to
854 the Board.

855 C. If fraud is proven on the part of a candidate, such candidate shall be declared
856 ineligible for the office for which he or she was a candidate. In all cases where a
857 petition is filed which alleges fraud, but after a hearing said allegations are not
858 proven by clear and convincing evidence, the contestant shall be civilly liable in
859 damages to the challenged candidate or Election Board for all damages sustained,
860 including reasonable attorney fees and all reasonable and proper costs of
861 conducting such contest. The bond shall be forfeited to the extent necessary to pay
862 attorney fees and costs.

863 D. If the challenger is able to prove a sufficient number of irregularities such that it is
864 impossible to determine with mathematical certainty which candidate is entitled to
865 be certified as a candidate or to have his or her name appear on the runoff ballot,
866 or in an election concerning a proposed measure or issue, prove that the outcome
867 of the election is impossible to determine with mathematical certainty, the judge
868 shall notify the chairperson of the Board of same. It shall then be the duty of the
869 Board Chairperson to notify the Principal Chief of said decision. The Principal
870 Chief shall then order a new election as soon as is practical in the same manner as
871 the contested election, with the identical candidates or issues; provided that any
872 candidate upon whom fraud has been proven shall not be a candidate in the new
873 election.

874 E. The person or persons challenging the election results must prove by clear and
875 convincing evidence that the Osage Nation Election Board or its subordinates
876 violated an election ordinance or otherwise conducted an unfair election and that
877 the outcome of the election would have been different.

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880 **CHAPTER SEVEN - INITIATIVE, REFERENDUM, AND RECALL ELECTIONS**

881 **SECTION 7.1. EXEMPTIONS & RESTRICTIONS - INITIATIVE AND REFERENDUM**

- 882 A. If, before an election to approve a law initiated by petition, a measure that is
883 substantially the same is enacted, the petition is void.
- 884 B. The initiative shall not be used to dedicate revenues, make or repeal
885 appropriations, create courts, define the jurisdiction of courts or prescribe their
886 rules, or enact local or special legislation. The referendum shall not be applied to
887 dedications of revenue, to appropriations, or to laws necessary for the immediate
888 preservation of the public peace, health, or safety of the Osage People. No article,
889 section, or provision of the Osage Nation Constitution shall be amended except as
890 provided in Article XX of the Constitution.
- 891 C. A referendum petition may be filed only within ninety (90) days after
892 adjournment of a legislative session at which the act was passed.

893 **SECTION 7.2. INITIATIVE AND REFERENDUM**

- 894 A. **Application.** A person or organization intending to file a petition for initiative or
895 referendum shall, before receiving said petition forms, file with the Osage Nation
96 Election Board an application provided by the Board. Such an application shall
897 set forth his or her name, or, if an organization, its name and the names and titles
898 of its officers, address, his or her intention to circulate and file a petition, and the
899 text of the proposed law or resolution or portion thereof, to be referred, or the
900 initiative law proposed. The application must also bear the signatures of 100
901 qualified voters. The application may then be submitted to the Election
902 Supervisor.
- 903 B. **Election Supervisor's duties.** Upon receipt of the application, the Election
904 Supervisor shall determine that the matter to be referred or initiated is not in
905 conflict with the Osage Constitution. Upon certification of the application, the
906 Election Supervisor shall within five (5) working days assign a number to the
907 petition, which number shall appear on the face of each copy thereof, and issue
908 that number and petition forms. Numbers shall be assigned to petitions by the
909 Board in numerical sequence and in the order of filing applications, and a record
910 shall be maintained in the Election Supervisor's office of each application
911 received and of the number assigned and issued to the applicant. Denial of
912 certification shall be subject to judicial review.
- 913 C. **Signature requirements and time limitations.** The circulated petitions must be
914 filed within 90 days of delivery of the petitions to the sponsors, or the petition
915 shall be void. If signed by qualified voters who are equal in number to at least
16 fifteen (15) percent of the electorate at the last General Election, the petition may

917 be filed. Petitions must also meet the requirements set forth by Section 7.5 of this
918 code.

919 D. **Certification of petition.** The Election Supervisor shall undertake reasonable
920 and prudent measures to determine the validity of the signatures on any filed
921 petition. If the Election Supervisor finds the application in proper form with the
922 necessary number of valid signatures, he or she shall certify the application and
923 prepare a ballot title and proposition summarizing the proposed law or act to be
924 referred.

925 E. **Election.** The proposed law or referral of existing law shall be place on the ballot
926 for the first election held after adjournment of the legislative session following the
927 filing.

928 **SECTION 7.3. RECALL**

929 A. **Grounds for recall - Congress, Executive, and other non-judicial elected**
930 **officials.** The grounds for recall of an officer other than a judge are

931 1. serious malfeasance or nonfeasance during the term of office in the
932 performance of the duties of the office; or

933 2. conviction, during the term of office, of a felony; or

934 3. conviction, during the term of office, of a misdemeanor involving moral
935 turpitude.

936 B. **Grounds for recall - Judiciary: RESERVED.**

937 C. **Recall elections - proximity to end of term.** A recall election may not occur less
938 than six (6) months before the end of an officer's term.

939 D. **Application.** A person or organization intending to file a petition for recall of an
940 elected official shall, before receiving said petition forms, file with the Osage
941 Nation Election Board an application provided by the Board. Such an application
942 shall set forth the name and office of the official to be recalled and the specific
943 conduct that may warrant the recall. The application must also bear the signatures
944 of 100 qualified voters. The application may then be submitted to the Election
945 Supervisor.

946 E. **Election Supervisor's duties.** If the Election Supervisor finds the application in
947 proper form, he or she shall certify the application and prepare a recall petition for
948 circulation by the sponsors. Denial of certification shall be subject to judicial
949 review. The Election Supervisor shall not authorize the circulation of the recall
950 petition by the sponsor or sponsors until the Osage Nation Supreme Court has

951 determined that the facts alleged in the petition are true and are sufficient grounds
952 for issuing a recall petition. The Election Supervisor shall be responsible for filing
953 the certified application with the Osage Nation Supreme Court within five (5)
954 days of certification. Upon determination by the Court that the alleged facts are
955 true and are sufficient grounds for issuing a recall petition, the Election
956 Supervisor shall authorize circulation of the recall petition.

957 F. **Signature requirements and time limitations.** The circulated petitions must be
958 filed within 90 days of delivery of the petitions to the sponsors, or the petition
959 shall be void. If signed by qualified voters who are equal in number to at least
960 fifteen (15) percent of the electorate, the petition may be filed. Petitions must also
961 meet the requirements set forth by Section 7.5 of this code.

962 G. **Certification of petition.** The Election Supervisor shall undertake reasonable
963 and prudent measures to determine the validity of the signatures on any filed
964 petition. If the Election Supervisor finds the application in proper form with the
965 necessary number of valid signatures, he or she shall certify the application and
966 prepare a ballot title and proposition summarizing the proposed law or act to be
967 referred.

968 H. **Election.** The recall election shall be held within 90 days, subject to the
969 provisions of Section 7.3 (C). If an official who is the subject of a recall petition
970 resigns after the petition is filed, the election shall be cancelled upon receipt of his
971 resignation by the Board. An officer who is removed from office by recall or who
972 resigns from office after a petition for recall is certified may not be appointed to
973 fill the vacancy created.

974 SECTION 7.4. CONSTITUTIONAL AMENDMENT

975 A. **Time Requirements.** A petition to amend the Osage Constitution shall be filed
976 no less than 90 days before the election at which the proposed amendment shall
977 be voted upon.

978 B. **Application.** A person or organization intending to file a petition for
979 Constitutional Amendment shall, before receiving said petition forms, file with
980 the Osage Nation Election Board an application provided by the Board. Such an
981 application shall set forth his or her name, or, if an organization, its name and the
982 names and titles of its officers, address, his or her intention to circulate and file a
983 petition, and the text of the proposed Constitutional Amendment, in full. The
984 application must also bear the signatures of 100 qualified voters. The application
985 may then be submitted to the Election Supervisor.

986 C. **Duties of the Election Supervisor.** If the Election Supervisor finds the
987 application in proper form, he or she shall certify the application and prepare a
988 petition for circulation by the sponsors. Upon certification of the application, the

989 Election Supervisor shall within five (5) working days assign a number to the
990 petition, which number shall appear on the face of each copy thereof, and issue
991 that number and petition forms. Numbers shall be assigned to petitions by the
992 Board in numerical sequence and in the order of filing applications, and a record
993 shall be maintained in the Election Supervisor's office of each application
994 received and of the number assigned and issued to the applicant. The petition shall
995 contain the full text of the proposed Amendment.

996 D. **Signature requirements and time limitations.** The circulated petitions must be
997 filed within one hundred eighty (180) days of delivery of the petitions to the
998 sponsors, or the petition shall be void. If signed by qualified voters who are equal
999 in number to at least twenty-five (25) percent of the electorate, the petition may
1000 be filed. Petitions must also meet the requirements set forth by Section 7.5 of this
1001 code.

1002 E. **Certification of petition.** The Election Supervisor shall undertake reasonable
1003 and prudent measures to determine the validity of the signatures on any filed
1004 petition. If the Election Supervisor finds the application in proper form with the
1005 necessary number of valid signatures, he or she shall certify the application and
1006 prepare a ballot. The announcement of petition certification shall be made by the
1007 Election Supervisor not less than 60 days prior to the election at which the
1008 proposed amendment is to be voted upon.

1009 F. **Publication.** The Election Supervisor shall publish in full the proposed
1010 amendment, existing provisions of the Constitution which would be altered or
1011 abrogated thereby, and the question as it shall appear on the ballot and place such
1012 publication prominently in each polling place, at tribal administrative offices, and
1013 furnished to news media.

1014 G. **Ballot requirements.** The ballot shall contain a statement prepared by the Osage
1015 Congress Legislative Services division or its successor. The statement shall:

- 1016 1. describe the purpose of the proposed amendment; and
- 1017 2. be expressed in not more than 100 words; and
- 1018 3. shall be true and impartial; and
- 1019 4. shall be composed in language that shall create no prejudice for or against
1020 the amendment.

1021 H. **Election.** The proposed amendment shall be placed on the ballot for the next
1022 general election, subject to the provisions of Section 7.4 (A) of this code.

- 1024 I. **Congressionally ordered elections to consider Constitutional Amendments.**
1025 Pursuant to Article XX, Section 1 of the Constitution, the Congress, in session,
1026 may order by resolution a special election for that purpose.

1027 **SECTION 7.5. SIGNATURES AND VERIFICATION**

1028 A. Every eligible voter signing a petition shall do so in the presence of the person
1029 circulating the petition and who is to execute the affidavit of verification. At the
1030 time of signing, the eligible voter shall sign his or her first and last names in the
1031 spaces provided and the voter so signing or the person circulating the petition
1032 shall print his or her first and last names and write, in the appropriate spaces
1033 following the signature, the signer's enrollment number, residence address, giving
1034 street and number, if any, and his or her post office address if any. The voter so
1035 signing or the person circulating the petition shall write, in the appropriate spaces
1036 following the voter's address, the date on which the voter signed the petition.

1037 B. The person before whom the signatures and addresses were written on the
1038 signature sheet shall on the affidavit form pursuant to this section, subscribe and
1039 swear before a notary public, that each of the names on the sheet was signed and
1040 the name and address was printed in the presence of the voter and the circulator
1041 on the date indicated, and that in his or her belief each signer was an qualified
1042 voter. All signatures of petitioners on a signature sheet shall be those of qualified
1043 voters. The absence of a printed name shall invalidate that signature. Signature
1044 and handwriting comparisons may be made.

1045 C. The affidavit shall be printed on the reverse side of each signature sheet on a form
1046 provided by the Osage Nation Election Board.

1047 **SECTION 7.6. PROCEDURE FOR WITHDRAWING SIGNATURES**

1048 A. An eligible voter who has signed a referendum petition may, by executing and
1049 filing with the Board an affidavit in the form prescribed by this Section within ten
1050 (10) days from the day on which the petition is filed with the Board, withdraw his
1051 or her signature from the petition. Any signature so withdrawn shall not be
1052 counted in determining the legal sufficiency of the petition. The affidavit shall:

1053 1. Be signed and sworn to before a notary public.

1054 2. Be in the given name and surname of the affiant.

1055 3. State the affiant's residence address, giving street and number, if any, his
1056 or her post office address and the referendum number of the petition which
1057 he or she signed.

58 4. Affirm the affiant's intention to withdraw his or her signature from the

1059 petition.

1060 B. The affidavit shall be provided by the Election Board.

1061 **SECTION 7.7. PROHIBITION ON CIRCULATING OF PETITIONS BY MEMBERS OF**
1062 **THE OSAGE NATION ELECTION BOARD**

1063 No member of the Osage Nation Election Board or committees, contractors or employees
1064 of the Board shall circulate any petition addressed in this chapter and all signatures verified by
1065 any such person as circulator affiant shall be void and shall not be counted in determining the
1066 legal sufficiency of the petition.

1067 **SECTION 7.8. PROHIBITION ON SIGNING PETITION FOR PROFIT**

1068 Any person who gives or receives money or any other thing of value for signing a
1069 petition addressed in this chapter, excluding payments made to a person for circulating such
1070 petition, is guilty of a criminal offense, and upon conviction, shall be subject to a fine of not to
1071 exceed one thousand dollars, or by imprisonment not to exceed one year, or both. Any non-
1072 member not subject to the criminal jurisdiction of the Osage Nation Court who violates this
1073 section shall be subject to exclusion from the Osage Nation property. Any signature obtained in
1074 violation of this section shall be void and shall not be counted in determining the legal
1075 sufficiency of the Petition.

1076 **SECTION 7.9. PROHIBITION ON FALSE SIGNATURES**

1077 A. Any qualified voter may sign a petition addressed in this chapter.

1078 B. A person signing any name other than his or her own to a petition, except in a
1079 circumstance where he or she signs for a person, in the presence of and at the
1080 specific request of such person, who is incapable of signing his or her own name,
1081 because of physical infirmity or knowingly signing his or her name more than
1082 once for the same measure, at one election, or who is not at the time of signing a
1083 qualified voter, or any officer or person willfully violating any provision of this
1084 Chapter, shall be punished by a fine not exceeding one thousand dollars, by
1085 imprisonment not to exceed one year, or both. Any signature obtained in violation
1086 of this chapter shall be void and shall not be counted in determining the legal
1087 sufficiency of the Petition.

1088 **SECTION 7.10. COERCION OR INTIMIDATION WITH RESPECT TO PETITIONS**
1089 **AND REFERENDUM ELECTIONS**

1090 A. It is unlawful for a person, directly or indirectly, to make use of force, violence or
1091 restraint, or to inflict or threaten infliction, by himself or herself or through any
1092 other person, of any injury, damage, harm or loss, or in any manner to practice
1093 intimidation upon or against any person, in order to induce or compel such person

1094 to sign or not to sign a petition or to vote or refrain from voting for a particular
1095 measure at any ballot issue election provided by this code, or on account of such
1096 person having voted or refrained from voting at a ballot issue election.

1097 B. Any person violating the provisions of this section is guilty of a criminal offense,
1098 and upon conviction, shall be subject to a fine not to exceed five thousand dollars,
1099 or by imprisonment not to exceed one year, or both.

1100 C. Persons not subject to the criminal jurisdiction of the Osage Nation courts shall be
1101 subject to exclusion from the Osage Nation property.

1102 **SECTION 7.11. VERIFICATION OF ELIGIBLE VOTERS**

1103 A. The Election Supervisor, with assistance as necessary from the Board, shall verify
1104 the signatures and claims of persons signing the Petition who claim to be qualified
1105 voters within thirty (30) days following the filing of the petition. If investigation
1106 finds that persons signing the Petition are not eligible Tribal voters as of the date
1107 of signing the Petition, the Board shall certify:

1108 1. The names, as well as the actual number, of persons selected by the Board
1109 for verification found not to be qualified voters as of the date of signing
1110 the petition.

1111 2. Whether the person whose signature appears in execution of each affidavit
1112 of circulator was a qualified voter at the time of circulating the petition.
1113

1114 **SECTION 7.12. COUNTING AND CANVASSING**

1115 If two or more conflicting measures are approved at the same election, the Board shall
1116 declare and certify to the Principal Chief which of the measures received the greatest number of
1117 affirmative votes.

1118 **SECTION 7.13. DESTROYING, SUPPRESSING OR FILING FALSE REFERENDUM**
1119 **PETITION; CLASSIFICATION**

1120 A person filing a petition who, at the time of filing the petition, knows it is falsely made,
1121 or who knowingly destroys or suppresses a petition, or any part thereof, which has been duly
1122 filed with the Osage Nation Election Board or the Election Supervisor as provided by this
1123 chapter is guilty of a criminal offense punishable by a fine of not less than \$500.00, nor more
1124 than \$1,000.00 and/or imprisonment for a term up to six months.

1125 **SECTION 7.14. DEFEAT OF REFERRED MATTER**

1126 If a referendum election of any enacted or proposed law or resolution, or portion thereof,

1127 of the Osage Congress is unsuccessful, no referendum petition on the defeated ordinance or
1128 resolution or portion thereof referred shall be permitted for a period of one (1) year from the date
1129 of the election results wherein the referendum failed.

1130 **CHAPTER EIGHT - FUNDING OF ELECTIONS**

1131 **SECTION 8.1. ESTABLISHMENT OF THE OSAGE NATION ELECTION FUND**

1132 A. There is hereby established the Osage Election Fund to provide adequate and
1133 necessary funding for activities set forth in this code.

1134 B. Upon appointment, the Osage Nation Election Board shall prepare and submit to
1135 Congress a proposed budget adequate to fund election activity in the coming
1136 fiscal year, both foreseen and unforeseen. Should the Congress fail to adequately
1137 fund the Board, or should the Principal Chief strike funding necessary to the
1138 Board in the conduct of its duties, the Osage Nation Election Board may seek
1139 legal remedy in the Osage Courts to force adequate funding of elections.

1140 **CHAPTER NINE - VILLAGE ELECTIONS**

1141 **SECTION 9.1. BIENNIAL ELECTIONS**

1142 A. The Pawhuska and Hominy Village Committees shall undertake biennial elections
1143 for Five Person Village Committees. The Principal Chief shall schedule such
1144 elections. The villages or Village Committees may seek the assistance of other
1145 government entities to conduct their election as long as those elections are not
1146 inconsistent with the Osage Constitution and Osage law. Only village voters may
1147 vote in such elections.

1148 B. The Chief shall appoint the Grayhorse Five Person Village Committee with the
1149 advice and consent of the Osage Congress.

1150 **CHAPTER TEN - CONGRESSIONAL VACANCIES**

1151 **SECTION 10.1. DEFINITION OF VACANCY**

1152 A. A vacancy, as used in this Act, shall occur in the event of the death, resignation,
1153 or removal of a Congressperson, or the failure of a Congressperson-elect to take
1154 office for any reason.

1155 B. In the event of serious and protracted illness, the Congress may declare a
1156 Congressional vacancy. Such a declaration shall require a 2/3 majority vote of the
1157 remaining Congresspersons, and shall be effective immediately upon such a vote.

1158 **SECTION 10.2. PROCEDURE FOR FILLING A VACANCY**

1159 A vacancy shall be filled by a Special Election held within 90 days of the occurrence or
1160 declaration of such a vacancy, with the following exceptions:

1161 A. If a vacancy occurs less than 90 days before a General Election and the position
1162 vacated would not be filled until the following General Election, the unsuccessful
1163 candidate receiving the highest number of votes in the upcoming General Election
1164 shall serve the balance of the term of the vacated position.

1165 B. If a vacancy occurs less than 180 days before a General Election and the position
1166 vacated would have been filled at the upcoming General Election, the position
1167 shall remain vacated until filled at the upcoming General Election.

1168 C. If the vacancy is a result of a Congressperson-elect failing to take office for any
1169 reason, the unsuccessful candidate that received the highest number of votes in
1170 the most recent election for a Congressional position shall assume the vacated
1171 position and serve the full term.

1172 D. If the vacancy results from the election of a sitting Congressperson to Principal
1173 Chief or Assistant Principal Chief:

74 1. midway through that Congressperson's term and

1175 2. the election was a general election

1176 the unsuccessful Congressional candidate receiving the highest number of votes in
1177 the general election shall fill the position for the remaining two years.

1178 **CHAPTER ELEVEN - EXECUTIVE VACANCIES**

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1180 **SECTION 11.1. EXECUTIVE VACANCIES AND ABSENCES**

1181
1182 A. In the event of a vacancy to the office of the Principal Chief, the Assistant
1183 Principal Chief shall succeed to the office for the remaining portion of the four (4)
1184 year term to which the Principal Chief was elected.

1185 B. In the event of a vacancy to the office of Assistant Principal Chief, the Principal
1186 Chief shall appoint a successor to serve for the balance of the term, by and with
1187 the advice and consent of the Osage Nation Congress.

1188 C. Whenever for a period of six (6) months, the Principal Chief has been
1189 continuously absent from office or unable to discharge the duties of the office by
'90 reason of mental or physical disability, the office shall be deemed vacant. Mental
.91 or physical disability shall be proven upon review and approval by Congressional

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Resolution of an affidavit signed by two (2) licensed physicians stating that the Principal Chief is unable to perform his or her duties due to mental or physical disability, and has been so disabled for at least six (6) months.

- D. If the Principal Chief's office becomes vacant, and the Assistant Principal Chief is unable to succeed to the office or act as Principal Chief, the Speaker of the Congress shall act as Principal Chief. Upon taking the position of Acting Principal Chief, the Speaker shall be empowered and obligateded by law to schedule an election to fill any vacant positions in the Executive Branch, provided that more than 180 days would pass before the next General Election. While serving as Acting Principal Chief, the Speaker shall appoint an Acting Speaker to serve in the Speaker's absence, and shall refrain from voting or debate in the Congress. While serving as Acting Principal Chief, the Speaker's absence in Congress shall not constitute a vacancy.


CHAPTER TWELVE - REPEALER AND SAVING CLAUSE

SECTION 12.1. REPEALER AND SAVINGS CLAUSE

This act shall repeal ONCA 06-07 entitled "To Provide for Filling Congressional Vacancies", and further shall repeal any other Resolution, Ordinance, Order, or Act of the Osage Nation, or its predecessor, inconsistent with the law now presented herein.

ENACTED by the Osage Nation Congress on this 25TH day of September, 2008.

IN WITNESS WHEREOF, the Speaker of the Osage Nation Congress has hereto attached his signature.



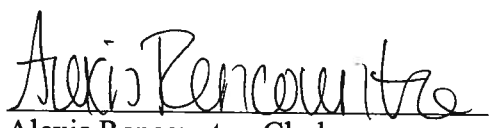
Archie Mason, Speaker
Osage Nation Congress

I, THE UNDERSIGNED, CERTIFY THAT THE FOREGOING IS A TRUE EXTRACT FROM THE MINUTES OF THE Osage Nation Congress comprised of twelve members and one ex-officio member with 13 members attending this meeting on the 25TH day of September, 2008,

1235 and that the above is in conformity with the provisions therein adopted by a vote of 8 in favor, 4
1236 against, and 0 absent.

1237
1238 Faren Revard Anderson no
1239 Jerri Jean Branstetter no
1240 Shannon Edwards yes
1241 Mark Freeman yes
1242 Debra Atterberry yes
1243 Archie Mason yes
1244 Raymond Red Corn yes
1245 Eddy Red Eagle, Jr. no
1246 Doug Revard yes
1247 Anthony Shackelford yes
1248 Mark Simms yes
1249 William Supernaw no

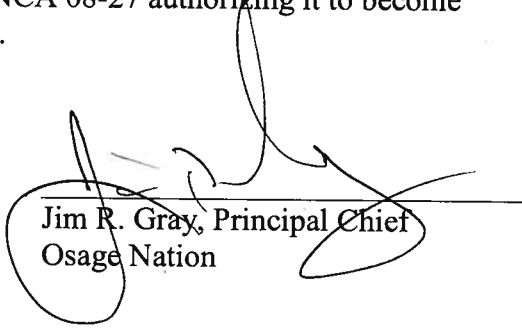
1250
1251
1252 Said Bill has not been rescinded or amended in any way and the above is the
1253 signature of the Speaker of the Osage Nation Congress.

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1255 
1256 Alexis Rencountre, Clerk
1257 Osage Nation Congress
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APPROVAL

I, the Principal Chief of the Osage Nation, hereby affix my signature this 30th day of September, 2008, to the above Bill No. ONCA 08-27 authorizing it to become a law under the Constitution of the Osage Nation.


Jim R. Gray, Principal Chief
Osage Nation