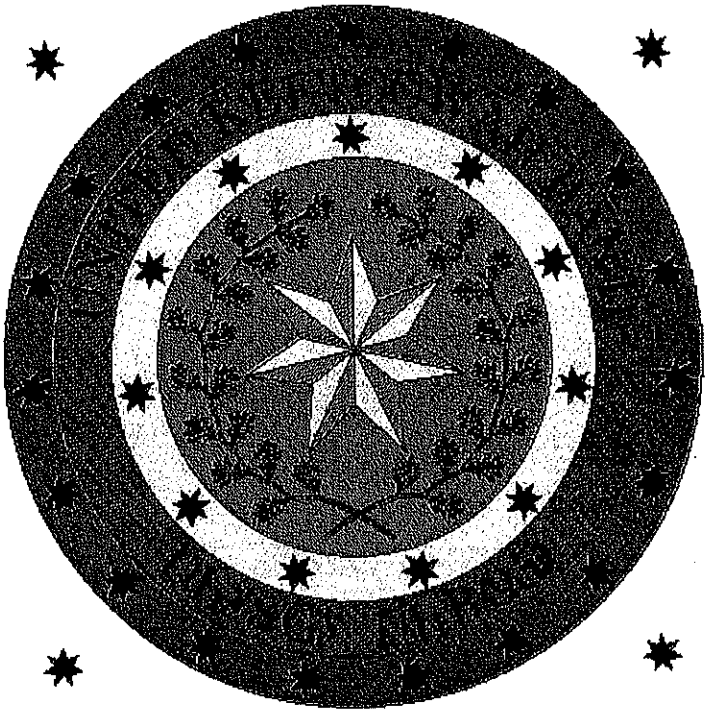
UNITED KEETOOWAH BAND OF CHEROKEE INDIANS IN OKLAHOMA ELECTION ORDINANCE OF 2012



Revised 2012

UNITED KEETOOWAH BAND
OF CHEROKEE INDIANS IN OKLAHOMA
ELECTION ORDINANCE OF 2012

TABLE OF CONTENTS

CHAPTER ONE 1
Section 101. Introduction 1
Section 102. Authority 1
Section 103. Declaration of Public Policy and Purpose 1
Section 104. Definitions 1
Section 105. Deadlines 2
CHAPTER TWO ELECTION BOARD 3
Section 201. Election Board Created 3
Section 202. Board Composition 3
Section 203. Election Board Eligibility 3
Section 204. Terms of Office 4
Section 205. Oath of Office 4
Section 206. Compensation 4
Section 207. Records 4
Section 208. Duties of Election Board 4
Section 209. Internal Procedure of Election Board 5
Section 210. Rules 5
Section 211. Action When No Procedure Provided 5
CHAPTER THREE GENERAL PROVISIONS 6
Section 301. Election Days 6
Section 302. Voting Districts 6
Section 303. Forms 6
Section 304. Instructions to Voters 7
Section 305. Public Information 7
Section 306. Polling Places 7
Section 307. Ballot Boxes 8
Section 308. Voting Booths 8
Section 309. Poll Watchers 8
Section 310. Electioneering and Loitering 9
Section 311. Voter Conduct 9
CHAPTER FOUR VOTERS 10
Section 401. Eligibility 10
Section 402. Residence and Affiliation 10
Section 403. Corrections to Personal Information 11
Section 404. Voter Lists; Challenges to Voter Lists 11
Section 405. Court Review of Challenges to Voter Lists 13
Section 406. Court to Notify of Judgments 13
Section 407. Precinct Books at Polling Places 13
Section 408. Confidentiality of Voter Information 13
CHAPTER FIVE FILING FOR OFFICE 15
Section 501. Eligibility for Office 15
Section 502. Filing for Office, Notice of Candidacy 16

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Section 503. Filing Period 17
Section 504. Candidate Withdrawal 18
Section 505. Procedure on Withdrawal 18
Section 506. Nicknames 19
Section 507. Filing for More than One Office Prohibited 19
Section 508. Contest of Candidate Eligibility 19
Section 509. Procedure for Hearing 19
CHAPTER SIX BALLOTS 21
Section 601. Candidate's Names 21
Section 602. Unopposed Candidates 21
Section 603. Care of Ballots 21
Section 604. Instruction on Ballot 21
CHAPTER SEVEN NO ABSENTEE VOTING 22
Section 701. No Absentee Votes 22
CHAPTER EIGHT CONDUCT OF ELECTIONS 23
Section 801. Hours of Voting 23
Section 802. Method of Voting 23
Section 803. Marking the Ballot 23
Section 804. Mutilated Ballots 24
Section 805. Unused Ballots 24
Section 806. The Tally 24
Section 807. Run-Off Election In Event of a Tie 25
Section 808. The Abstract 25
Section 809. Certification of Election 25
Section 810. Recounts 25
Section 811. Installment in Office: Oath of Office, Swearing in Ceremony 26
Section 812. Retention of Ballots 27
Section 813. Retention of Precinct Books 27
CHAPTER NINE ELECTION CONTESTS 29
Section 901. Grounds for Contest 29
Section 902. Filing Fee 29
Section 903. Contest Petition 29
Section 904. Hearing on Contest Petition 30
Section 905. Review of Election Materials 30
Section 906. Tribal Court Review 31
Section 907. Harmless Error 31
Section 908. Finality 31
Section 909. New Elections 31
CHAPTER TEN SPECIAL PROVISIONS 33
Section 1001. Tribal Authority Not Compromised 33
Section 1002. Severability 33
Section 1003. All prior Laws. Rules. and Regulations Repealed 33
Section 1004. Effective Date 33

UNITED KEETOOWAH BAND
OF CHEROKEE INDIANS IN OKLAHOMA
ELECTION ORDINANCE OF 2012

CHAPTER ONE

Section 101. Introduction

This ordinance shall be known as the United Keetoowah Band of Cherokee Indians in Oklahoma Election Ordinance of 2012.

Section 102. Authority

This ordinance is enacted pursuant to the authority contained in the Constitution and By-laws of the United Keetoowah Band of Cherokee Indians in Oklahoma and by the authority of the Council of the United Keetoowah Band of Cherokee Indians in Oklahoma.

Section 103. Declaration of Public Policy and Purpose

(A) The uniform, impartial, and effective administration of tribal elections is a vital activity in a sovereign exercise of its powers and duties.

(B) The purpose of this ordinance is to establish fair, straight forward, and efficient procedures to govern the tribal election processes, to ensure that the integrity and objectives of elections are preserved, to protect and maintain the rights and privileges of members to participate in elections, to prevent abuses of the election process, and to ensure that elections are conducted in an open, just and consistent manner.

(C) It is in the best interest of the United Keetoowah Band of Cherokee Indians in Oklahoma to enact an ordinance providing for the lawful and orderly manner in which elections are to be conducted.

Section 104. Definitions

As used in this ordinance, the following words shall have the following meanings:

(A) "Absentee voting" shall mean voting by any means other than casting a ballot in person at an official polling place.

(B) "Banishment" means to remove from the tribe as a formal punishment.

(C) "Business Day" means a day when the offices of the United Keetoowah Band of Cherokee Indians are open for regular business.

(D) "Council" or "Tribal Council" means the Tribal Council of the United Keetoowah Band of Cherokee Indians in Oklahoma.

(E) "Election Board" means the Council approved Election Board of the United Keetoowah Band of Cherokee Indians in Oklahoma.

(F) "Electioneering" shall include any activity, other than voting, supporting a particular candidate, including, but not limited to, wearing hats, buttons, shirts or any other garment or accessory supporting a candidate, passing out leaflets or pamphlets supporting a candidate, carrying a sign supporting a particular candidate or taking any other action to urge voters to vote for a particular candidate.

(G) "Exclusive Member" means a person who can prove ¼ degree or more of Cherokee Indian blood and is not an enrolled member of any other Tribe/Band.

(H) "Mandamus" means a command that a specific thing be done.

(I) "Member" or "Tribal Member" means all persons who are determined to be members pursuant to the Constitution and By-laws, and any rules and regulations there under the Enrollment Ordinance of the United Keetoowah Band of Cherokee Indians in Oklahoma.

(J) "Precinct Worker" means any exclusive member of the United Keetoowah Band of Cherokee Indians in Oklahoma approved by the Election Board to assist in the Tribal election process.

(K) "Residence" means the place where one actually lives as distinguished from his domicile or a place of temporary dwelling.

(L) "Tribal Court" or "Tribal District Court" means the Courts of the United Keetoowah Band of Cherokee Indians in Oklahoma.

(M) "Tribal Secretary" means the elected or appointed Secretary of the United Keetoowah Band of Cherokee Indians in Oklahoma.

(N) "Tribal Treasurer" means the elected or appointed Treasurer of the United Keetoowah Band of Cherokee Indians in Oklahoma.

(O) "Voting District" means the geographical area established to facilitate the election of each district's representation on the Council.

Section 105. <u>Deadlines</u>

When this Ordinance requires a particular action to be performed on or before a certain date, and when that date falls on a scheduled non-Business Day, then the deadline for that act shall fall on the last Business Day before the date set forth in this Ordinance. If the non-Business Day is unscheduled (for instance, tribal offices may close unexpectedly due to inclement weather), then the deadline shall fall on the next Business Day.

CHAPTER TWO
ELECTION BOARD

Section 201. Election Board Created

There is hereby created and established an Election Board which shall be an agency of the United Keetoowah Band of Cherokee Indians in Oklahoma having the duties and powers hereinafter mentioned, and which shall conduct all elections in compliance with this Election Ordinance and in accordance with the Constitution and By-laws of the United Keetoowah Band of Cherokee Indians in Oklahoma.

Section 202. Board Composition

(A) Members of the Council shall submit the names of individuals to serve on the Election Board. The Council shall, by resolution, approve three individuals to serve on the Election Board.

(B) The three approved members of the Board shall submit for Council approval the names of at least two additional individuals to serve on the Board.

(C) The Election Board shall select from its membership individuals to hold the offices as Chairman, Vice-Chairman and Secretary. The Board may also select other persons to serve as Judges, Interpreters, Counters, Clerks, Alternates, and such other persons that may be required to conduct an election. Copies of all such selections and appointments shall be filed in the Election Office.

Section 203. Election Board Eligibility

(A) In order to be appointed to the Election Board or to serve as a precinct worker, a person must be an exclusive member of the United Keetoowah Band of Cherokee Indians in Oklahoma not less than twenty one (21) years of age, be a resident of the Old Cherokee Nation, and not be under any court ordered guardianship due to mental incapacity.

(B) The following individuals are prohibited from serving on the Election Board:

(1) Current candidates for election to any tribal office to be decided by that election as well a candidate's spouse or cohabitating partner or any brother, sister, parent, child or grandparent, whether related by blood, marriage, adoption or operation of other law, including in-laws of equivalent degrees. Should a Board member, or such relative of a Board member, be a candidate for office, the affected Board Members may either resign or take a leave of absence during that election, in which case the UKB Council shall approve a Temporary or Alternate Board member as may be necessary.

(2) Persons convicted of a felony, imprisonment or a crime punishable by tribal banishment shall be ineligible to serve on the Election Board.

Section 204. Terms of Office

Each Election Board member shall continuously serve or until a position is vacated by resignation, by death or other unforeseen circumstances. In the event a vacancy occurs on the Election Board, such vacancy shall be filled by a candidate submitted by the Election Board and approved by the Council at the next scheduled Council meeting.

Section 205. Oath of Office

Prior to entering into duties of office, each Election Board member shall take the following Oath of Office to be administered by the Chief, Assistant Chief, Secretary, Treasurer or the Court Clerk of the Tribe:

I, _____, do solemnly swear, or affirm that I will support, protect, and defend the Constitution and By-laws of the United Keetoowah Band of Cherokee Indians in Oklahoma, and will cause the elections of the United Keetoowah Band of Cherokee Indians in Oklahoma to be conducted fairly, impartially, and in accordance with the laws of the United Keetoowah Band of Cherokee Indians in Oklahoma so help me God."

Section 206. Compensation

Members of the Election Board and precinct workers may receive such compensations as may be approved and budgeted for performance of Election Board duties.

Section 207. Records

The Election Board shall maintain complete and accurate minutes of its meetings. These records shall be filed in the UKB Election Board office within fifteen (15) days after each meeting and shall be public record open to inspection during regular office hours.

Section 208. Duties of Election Board

(A) Chairman - the Election Board Chairman shall be the presiding member of the Election Board and shall be responsible for the overall activities of the Election Board.

(B) Vice Chairman - the Election Board Vice Chairman shall assist the Election Board Chairman, preside in the Election Board Chairman's absence, and assist in the conduct of the elections.

(C) Secretary-Treasurer - the Election Board Secretary shall record and maintain accurate minutes of meetings and records pertaining to an election and shall collect and receive all fees associated with any contest matters. The Election

Board Secretary-Treasurer shall keep a record of all fees paid and shall certify the authenticity of all records.

(D) Clerks - the Clerks shall assist in the conduct of the elections, and shall check off the voters in the Precinct Book. Each clerk shall keep a separate record of the members voting which shall be cross-checked frequently by the Election Board Chairman or the Chairman's designee, to ensure accuracy.

(E) Interpreters - the Interpreters shall provide assistance to voters upon reasonable requests.

(F) Counters - the Counters shall assist in the conduct of the elections and undertake such duties as may be assigned by the Election Board officers.

(G) It shall be the duty of all members of the Election Board to become thoroughly familiar with the Election Ordinance, to see that it is rigorously followed, and to immediately document and report any violations of the Election Ordinance or other laws to the Attorney General or his/her designee to ensure compliance.

Section 209. <u>Internal Procedure of Election Board</u>

(A) Quorum - a quorum of the Election Board shall consist of a majority of the membership of said Board.

(B) Meetings - Meetings may be called at any time by the Chairman, or by request of a majority of the Election Board. In the event the Chairman fails to call a meeting, as requested by the other members of the Election Board who request, it may convene upon proper notification to all members of the Board. All meetings shall be at the Tribal Office unless notice of change in meeting place and time is conspicuously posted for at least twenty-four (24) hours in the Tribal Office prior to the meeting.

Section 210. <u>Rules</u>

The Election Board shall have the authority to prescribe such rules consistent with this Election Ordinance as may be necessary or proper for the conduct of Tribal Elections. Copies of such rules shall be filed with the Tribal Secretary before they are bound and posted in prominent places in the Tribal offices and other such places the Election Board may deem advisable. Whenever possible they shall be published in the Tribal Newspaper and a newspaper in each district during the month prior to the election.

Section 211. <u>Action When No Procedure Provided</u>

Whenever no procedure is specifically provided in this Election Ordinance, the election processes may be conducted in any otherwise lawful and fair manner as determined by the Election Board.

CHAPTER THREE
GENERAL PROVISIONS

Section 301. **Election Days**

(A) Regular elections of members of the Council and Officers of the Band shall be held on the first Monday in November of each election year.

(B) Consistent with Section 807 of this Ordinance, any candidate receiving the majority fifty percent plus one (50% + 1) of the votes in the Regular Election will be declared the winner of that office.

(1) If no candidate receives the majority of the votes, the two (2) candidates with the highest number of votes cast in the Regular Election will advance to the Run-off Election.

(2) Any Run-off Election required under Section 807 of this Ordinance shall be held on the first Monday in December of each election year. Any subsequent runoff election required under Section 807 shall follow on the first Monday of the following month. If the first Monday is not a Business Day, the election shall be held on the second Monday of that month, with any further required runoff election held accordingly during each successive month until one candidate receives a majority.

(C) In the event the Election Board or the District Court orders a new election to be held following an election contest as provided in Chapter 9 of this Ordinance, such election shall be held on the first Monday following the expiration of 30 days after the entry of such order. If the 30th day falls on a Monday or is not a Business Day, the election shall be held the following Monday.

(D) Special Tribal elections shall be held upon call of the Council.

Section 302. **Voting Districts**

The Election Board shall designate polling places in each of the following districts subject to Council approval:

Canadian, Cooweescoowee, Delaware, Flint, Goingsnake, Illinois, Saline, Sequoyah, and Tahlequah

Section 303. **Forms**

All forms of ballots and other forms of paper needed for Tribal Elections shall be prescribed and provided by the Election Board. Cost of producing all such forms shall be paid by the Election Board of the United Keetoowah Band of Cherokee Indians in Oklahoma.

Section 304. Instructions to Voters

(A) Instructions to voters describing the manner of casting one's vote shall be posted outside each polling place and inside each voting booth by the Election Board.

(B) A ballot shall be issued to a voter only after the voter presents a proper photographic tribal identification card, and signs the Signature Book or polling register.

Section 305. Public Information

(A) The Election Board is authorized to publish in the Tribal Newspaper or other media, names of candidates and other ballot issues, election dates and times, polling places, election results and other such information as it may deem necessary in the discharge of its duties. Whenever possible, printed and electronic media of general circulation in the area shall be used to publish the notice of elections.

(B) For regular elections, the minimum requirements are as follows: A list of polling places, candidates and ballot questions, along with the date and times for voting, shall be published once in the tribal newspaper and twice a newspaper in each district during the month prior to the election.

(C) For run-off elections and new elections held pursuant to Chapter 9 of this Ordinance, the requirements under subsection (B) shall be followed to the fullest extent possible, but advertisement in the tribal newspaper shall not be strictly required.

Section 306. Polling Places

(A) Polling places shall be designated in each voting district by the Election board for each election in the United Keetoowah Band of Cherokee Indians' jurisdiction. A sample ballot shall be displayed at polling places. The time and location of the Election places shall be published in the United Keetoowah newspaper and on the United Keetoowah web site and in local newspapers as provided in Section 305.

(B) The Election Board shall designate in each polling district any additional polling place provided that such designation shall be approved by the Council and shall be published in the Tribal Newspaper and posted in the Tribal Offices thirty (30) days prior to said regular election and shall be published in local newspapers as provided in Section 305.

Section 307. **Ballot Boxes**

(A) Regardless of whether ballots are hand-counted or electronic voting devices are used, marked ballots shall be deposited into a ballot box, which shall consist of a secured receptacle designed to prevent tampering.

(B) **Electronic Counting.** In the event electronic voting devices are used, the Election Board shall implement procedures to ensure the security of the marked ballots. Actual counting and retention procedures may vary depending on the design of the specific electronic voting device used.

(C) **Hand Counting.** The following requirements apply in the event ballots are to be hand-counted.

(1) There shall be one locked ballot box for each polling place. Each ballot box shall be constructed of substantial material and shall be equipped with a lock so that the keys of one lock will not unlock the other. Each box shall be equipped with a slot or opening in the top through which ballots may be inserted, so that the box must be unlocked before the ballots can be removed. The Election Board Chairman or his/her designated representative shall retain the keys in his/her custody until the time to tally the votes cast.

(2) Only Election Board members and precinct workers shall have access to the ballot boxes. Any access made to a ballot box by an Election Board member or precinct worker shall be logged and verified by at least one other Election Board member or precinct worker.

(3) New locks and keys shall be provided for each election.

Section 308. **Voting Booths**

At least two (2) voting booths shall be provided at each polling place unless otherwise determined by the Election Board that only one booth is needed. Said booths shall be constructed with a counter or shelf in such a manner that an Election official may ensure that no more than one person occupy the booth and to ensure secrecy by the voter in marking the ballot.

Section 309. **Poll Watchers**

Each candidate may designate in writing one (1) person, not a candidate or a member of the immediate family, whether a naturally or legally adopted as described in Section 203, (mother, father, brother, sister, son, daughter, in-law, grandparent, spouse, etc.) to watch the activities at the polls. Such designation shall be presented to the Election Board for approval five (5) business days prior to the election. Poll watchers may observe only and shall not interfere in any way with the conduct of the elections or talk to voters inside the polling place. Any poll watcher or other

person(s) interfering with the Election or attempting to electioneer, in any way, shall be ejected from the poll area by a law enforcement officer or a precinct worker.

Section 310. Electioneering and Loitering

No electioneering shall be allowed within one-hundred (100) feet of the polling place where and when the election is in progress. No loitering shall be permitted in the polling places during voting hours. It shall be the duty of the election precinct workers at the polling place to obtain such assistance, as may be required, to maintain order about the building or premises during the progress of the election.

Section 311. Voter Conduct

Person(s) appearing to be under the influence of alcohol or drugs will not be permitted in the polling places. No person will be permitted to engage in conduct which may interfere with the election process. Any person who engages in any activity which serves as detriment to the election process or which inhibits the right of another to vote shall be escorted from the polling area by a law enforcement officer.

CHAPTER FOUR
VOTERS

Section 401. **Eligibility**

(A) To be eligible to vote in an election, an individual must –

(1) be not less than 21 years of age as of the date of the election; in accordance with and by operation of Article III, Section, 2 of the Constitution of the United Keetoowah Band of Cherokee Indians in Oklahoma, as ratified October 3, 1950.

(2) have been an exclusive member of the United Keetoowah Band of Cherokee Indians in Oklahoma for a period of not less than six (6) months prior to the election;

(3) have been a resident of or affiliated with a particular district for at least six (6) months prior to the election;

(4) be listed in the official Voter List for the district in which the voter seeks to vote;

(B) The following individuals shall not be eligible to vote in any election:

(1) Persons punished by banishment from the United Keetoowah Band of Cherokee Indians in Oklahoma.

(2) Persons who have been adjudged mentally incompetent by a court of competent jurisdiction and whose status of competency has not been reinstated.

(C) Individuals who turn 21 years of age on the date of an election shall be eligible to vote provided they satisfy all other qualifications.

(D) Individuals whose membership is approved by the Council in the month of May prior to a November election shall be deemed to have been members for the required six month period and shall be eligible to vote provided they satisfy all other qualifications.

Section 402. **Residence and Affiliation**

(A) An eligible voter who resides within the territory known as the Old Cherokee Nation shall be entitled to vote in the district where that individual has resided for the three (3) months prior to the election. In the event an eligible voter moves to an address in a different district during the three (3) months prior to the election, that voter shall not be entitled to vote in the new district until the next election.

(B) An eligible voter living outside of the territory known as the Old Cherokee Nation, in Oklahoma shall have the right to vote in any district with which he/she may choose to affiliate by notifying the Secretary of the Council in writing of his/her choice no later than June 1 of that election year.

(C) No voter shall be permitted to vote in more than one (1) district.

Section 403. <u>Corrections to Personal Information</u>

(A) An eligible voter shall provide any corrections to personal information (name, address district affiliation) to the Tribal Secretary no later than July 15 of an election year.

(B) In the event of a special election, a voter must provide corrections to personal information to the Tribal Secretary before the end of the two-week period provided for public inspection of the preliminary Voter List under Section 405(B).

(C) Individuals who fail to provide current and correct contact information to the Tribal Secretary by the deadline may be unable to vote in an election.

Section 404. <u>Voter Lists; Challenges to Voter Lists</u>

(A) The Secretary shall prepare a master list of eligible voters for each election.

(1) The term "Voter List" as used in this Ordinance shall refer to the master list of eligible voters prepared and maintained by the Tribal Secretary.

(2) From the Voter List, the Secretary shall prepare for the Election Board "Precinct Books" consistent with Section 404(B)(5) of this Ordinance. Copies of Precinct Books shall also be provided to candidates who pay the fee imposed by Section 503(G).

(3) On the day of the election, voters will be required to sign their names in "Signature Books." These Signature Books are utilized to record who voted at a particular polling place. The Signature Books may be prepared by the Secretary, the Election Board, or their designee. The Signature Books may be supplemented by electronic records or other forms of polling registers designed to ensure against double voting.

(B) The following procedures apply to individuals seeking to be added to the Voter List for a regular tribal election.

(1) No later than July 1 of an election year, the Tribal Secretary shall prepare a preliminary version of the Voter List, which List shall be open to public inspection during regular business hours. The Voter List shall include all members who will turn 21 years of age on or before the date of the election and who are otherwise eligible to vote.

(2) No later than July 15 of an election year, any person not listed on the preliminary Voter List may apply to have his or her name added to said List by filing an application with the Tribal Secretary.

(a) Any person applying to be added to the Voter List shall provide proof of such eligibility to Tribal Secretary.

(b) The burden of proof in all cases shall rest with the applicant.

(3) The Tribal Secretary shall, on or before July 25 of an election year, render a determination on all requests filed by individuals seeking to be added to the Voter List.

(4) If the Secretary fails to render a timely decision or denies the application, the applicant may seek relief from the Tribal Court as otherwise provided under Section 405. No election shall be delayed pending the outcome of such a challenge.

(5) No later than July 31 of an election year, the Tribal Secretary shall prepare a final Voter List and shall present a sufficient number of certified Precinct Books as requested to the Election Board. Precinct Books shall be destroyed by the Election Board following the election as described in Section 813.

(6) After July 31 of an election year, the Tribal Secretary shall not issue any membership card that changes a member's voting district.

(C) The following procedures apply to individuals seeking to be added to the Voter List for a special tribal election, unless provided otherwise by Council resolution:

(1) The Tribal Secretary shall make the preliminary Voter List available for public inspection for a minimum of two weeks. All applications to be added to the Voter List must be filed before the end of this two-week period.

(2) Not more than ten (10) days following the close of the public inspection period, the Tribal Secretary shall render a determination on all requests filed by individuals seeking to be added to the Voter List.

If the Secretary fails to render a timely decision or denies the application, the applicant may seek relief from the Tribal Court as otherwise provided under Section 405. No election shall be delayed pending the outcome of such a challenge.

Section 405. Court Review of Challenges to Voter Lists

(A) If the Tribal Secretary fails to timely render a decision on an application to be added to the Voter List or denies such application, the party seeking to be added to the Voter List may file an action in the Tribal Court against the Tribal Secretary in mandamus to secure appropriate relief.

(B) Such action must be filed within ten (10) days of the date the Secretary should have rendered a decision, or the date the application receives a notice that the application was denied, whichever time period is shorter.

(C) The Court shall conduct a hearing on a voter application on an expedited basis and shall expedite such cases, so as to reach a final decision prior to the date on which the Tribal Secretary is to provide the Precinct Books to the Election Board.

(D) The Tribal Attorney shall represent the Tribal Secretary and the Court shall expedite such cases, so as to reach a final decision prior to the date on which the Tribal Secretary is to provide the Precinct Books to the Election Board.

(E) No election shall be postponed due to such action.

Section 406. Court to Notify of Judgments

It shall be the duty of the Clerk of the Tribal Court to notify the Tribal Secretary and the Chairman of the Election Board of the entry of any judgment which would cause a member of the United Keetoowah Band of Cherokee Indians in Oklahoma to lose their rights to vote pursuant to Section 401 of this Election Ordinance within thirty (30) days of the entry of final judgment.

Section 407. Precinct Books at Polling Places

On the date of the election, each polling place shall maintain a Precinct Book, prepared by the Secretary, containing a list of the individuals eligible to vote in that particular district on Election Day. Each polling place shall also utilize Signature Books prepared separately from the official Precinct Book. In the event a question arises as to a voter's eligibility or district affiliation, the Precinct Book prepared by the Secretary shall be the official record for purposes of determining voter eligibility. More specifically, the Signature Book will permit the voter to receive a ballot, but the accuracy of the Signature Book may be verified against the Precinct Book prepared by the Secretary in the event of a question relating to voter eligibility or district affiliation.

Section 408. Confidentiality of Voter Information

(F) All voter information, including the Voter List, Precinct Books, Signature Books and other documents containing voter information shall be considered the property of the United Keetoowah Band of Cherokee Indians in Oklahoma and

shall be considered confidential. Such information may be used **only** for limited election purposes as allowed in this Ordinance.

(G) Any individual who retains, disseminates or uses voter information for any purpose not permitted under this Ordinance shall be subject to suit in the Tribal Court and such civil penalties and fines, including punitive damages and attorneys fees, as may be awarded.

(H) Neither the United Keetoowah Band of Cherokee Indians in Oklahoma nor the Election Board shall be deemed to have waived sovereign immunity for any purpose by filing suit in the Tribal Court to enforce the limits on the use of voter information provided in this Ordinance.

CHAPTER FIVE
FILING FOR OFFICE

Section 501. **Eligibility for Office**

(A) To be eligible to file for office as a member of the Council of the United Keetoowah Band of Cherokee Indians in Oklahoma, a person must meet these requirements:

(1) Candidates for the office of the Chief or Assistant Chief, must be at least thirty-five (35) years of age and, for a period of not less than twelve (12) months prior to filing,

(a) be a resident of the Old Cherokee Nation and

(b) be an exclusive member of the United Keetoowah Band of Cherokee Indians in Oklahoma.

(2) Candidates for the offices of Secretary or Treasurer must be at least twenty-one (21) years of age and, for a period of not less than twelve (12) months prior to filing,

(a) be a resident of the Old Cherokee Nation and

(b) be an exclusive member of the United Keetoowah Band of Cherokee Indians in Oklahoma.

(3) Candidates for District Representative must be at least twenty-one (21) years of age and, for a period of not less than twelve (12) months prior to filing,

(a) be a resident of the district to be represented and

(b) be an exclusive member of the United Keetoowah Band of Cherokee Indians in Oklahoma.

(B) The following individuals shall not be eligible to run for office:

(1) Persons having pled guilty to or having been found guilty of a felonious offense resulting in a final conviction of a felony. A Suspended Sentence is a final conviction of a felony. A Deferred Sentence is not considered a final conviction of a felony.

(2) Persons punished by banishment from the United Keetoowah Band of Cherokee Indians in Oklahoma.

(3) Persons who have been adjudged mentally incompetent by a court of competent jurisdiction and whose status of competency has not been reinstated.

(C) All candidates must complete and sign all necessary documentation to permit the Election Board to conduct a Criminal History Record Information report through the Oklahoma State Bureau of Investigation (or such other or additional criminal background check as the Board deems necessary) in order to confirm that the individual has not been convicted of a felony.

(1) The Election Board shall complete all background checks within ten (10) business days following the close of the Filing Period.

(2) If the background check uncovers information indicating a candidate is not qualified for office, the Board shall notify the candidate that he or she has been disqualified within two (2) business days.

(3) A candidate may appeal such disqualification in writing within five (5) business days and shall be entitled to a hearing pursuant to Section 510.

(4) Following the completion of the background checks and the conclusion of any appeals, the Board shall make available to the public a list of candidates certified as eligible.

(5) Information gathered regarding disqualified candidates shall not be disclosed by the Election Board.

(D) No member of the Council shall be eligible to hold any other elected office in the United Keetoowah Band during his/her tenure as a member of Council.

(E) No person elected to office shall hold a position as a tribal employee of the United Keetoowah Band of Cherokee Indians in Oklahoma. Said employment must be relinquished upon being sworn into office. Tribal employees who are candidates for office are strictly prohibited from campaigning during business hours or using Tribal resources (copiers, phones, paper, etc.) for campaign purposes.

(F) All information obtained by the Election Board in connection with candidate filings shall be confidential.

Section 502. <u>Filing for Office, Notice of Candidacy</u>

(A) To be eligible for election and have one's name placed upon the ballot, a Notice of Candidacy for an elective office must be filed with the UKB Election Board Secretary after depositing the candidate's non-refundable applicable filing fee (paid by money order or cashier's check only) with the Election Board during regular business hours before 6:00 o'clock p.m. at the Election Office Complex during the filing period prior to the date of any Regular Election. The UKB

Election Board Secretary shall notify the Chairman of the Election Board of all candidates who have filed for office.

(B) The filing fee schedule is as follows:

For Chief	$500
For Assistant Chief	$400
For Secretary	$400
For Treasurer	$400
For District Representative	$250

Section 503. <u>Filing Period</u>

(A) Notices of Candidacy provided herein shall be filed in person with the UKB Election Board no earlier than 9:00 o'clock a.m. on the first business day of August and no later than 6:00 o'clock p.m. on the 10th business day of August of each election year. In no event shall the UKB Election Board accept said Notices of Candidacy after the time prescribed by the United Keetoowah Band Election Ordinance.

(B) Forms to be used for filing Notices of Candidacy shall be prescribed by the Election Board and shall contain, at a minimum, the following information:

(1) The name of the candidate;

(2) The candidate's place of residence, mailing address and physical address;

(3) The position or office sought;

(4) The candidate's date of birth and age;

(5) The candidate's tribal affiliation and date of affiliation;

(6) The candidate's district affiliation;

(7) An oath wherein the candidate swears or affirms that the candidate is qualified and eligible to become a candidate for the office which is being sought, and that if elected the candidate will be qualified and eligible to hold said office; and

(8) Any additional information which the Election Board deems necessary.

(C) A Notice of Candidacy must be personally signed and a notary public must properly notarize the signature or other person authorized by law to administer oaths, no facsimile, reproduction, typewritten or other substitute signature or autograph will be valid.

(D) A person may become a candidate for office and have his/her name appear on a ballot only after the proper filing of Notice of Candidacy and the proper payment of filing fees as provided herein.

(E) All candidates for any elective office of the UKB shall, at the time of filing, submit a complete physical address to the Election Board, with clearly stated directions to the physical address, when necessary. GPS (Global Positioning Satellite) devices may be utilized to verify actual residence location.

(F) All candidates for any elective office of the UKB shall appear in person at the Keetoowah Election Board to submit all required filing documents and filing fees within the time limits and dates set by the Election Ordinance.

(G) Each candidate may receive a copy of a Precinct Book listing eligible voters affiliated with his or her district (or, in the case of officer candidates, all districts) upon payment of a $300 deposit payable by money order or cashier's check only.

(1) The Precinct Book shall contain **only** the voters' names and addresses.

(2) A candidate may use the Precinct Book **only** for campaigning purposes, such as making in-person visits and mailing campaign literature.

(3) Candidates shall not make copies of the Precinct Book.

(4) The Precinct Book shall be returned to the Election Board for destruction following the election as described in Section 813.

(5) Failure to return the Precinct Book shall result in the forfeiture of the $300 deposit, an additional $300 fine and being declared ineligible to run for office in the next election as described in Section 813.

Section 504. Candidate Withdrawal

Any candidate for the Office of the Chief, Assistant Chief, Secretary, Treasurer, or any District Council position may, at any time prior to thirty (30) calendar days before the election, and during regular business hours before 5:00 p.m. withdraw his or her name as a candidate for any office by delivering to the Election Board a signed and notarized notice of withdrawal of their name from the election. In such event that candidate's name will not appear on any ballot. No fees shall be refunded, The Election Board shall notify the Chairman of the Election Board of all candidates who have withdrawn as candidate for an office.

Section 505. Procedure on Withdrawal

If a candidate withdraws, the Election Board officials shall post notices to that effect at all polling places and within the voting booth, or otherwise obliterate the candidate's name from the ballots. Any votes cast for a withdrawn candidate shall be disregarded.

Section 506. Nicknames

Each candidate may specify one (1) nickname to be placed on the ballot alongside the candidate's true name.

Section 507. Filing for More than One Office Prohibited

No person shall be a candidate for more than one office at any one election.

Section 508. Contest of Candidate Eligibility

Any candidate or eligible voter may challenge a candidate's legal qualifications to run for a particular office by depositing a non-refundable contest fee for a contest related to a particular candidate for a particular office based on the following fee schedule as follows:

For Chief	$500
For Assistant Chief	$400
For Secretary	$400
For Treasurer	$400
For District Representative	$250

(payable by money order or cashier's check only) with the Election Secretary and by filing a written petition with the Election Board within three (3) business days of the closing of the filing period. The petition shall state with particularity the reasons the candidate is not eligible to file for office. The Election Board shall notify the affected candidate of the challenge and conduct a hearing on the petition as provided in Section 510.

Section 509. Procedure for Hearing

(A) Within two business days of receiving a filing pursuant to Section 501(C), 508 or 509, the Election Board shall deliver a notice of hearing to the affected candidate and any petitioning party advising of the time, date and place of the hearing.

(B) Unless waived by the parties, the Election Board must provide a minimum of forty-eight (48) hours notice prior to the hearing.

(C) The hearing shall be held within ten (10) business days of the Board's receipt of the complaint or petition and shall be recorded and transcribed by a court reporter.

(D) The Election Board shall render a decision within three (3) business days of the hearing. The Board's decision shall be final.

(E) No formal pleadings are required. The Election Board may subpoena witnesses and take testimony under oath.

(F) In hearings conducted pursuant to Sections 508 and 509, the burden of proof shall be on the complaining or petitioning party (including the Board in proceedings

under Section 508). In hearings conducted pursuant to Section 501(C), the burden of proof shall be on the candidate.

CHAPTER SIX
BALLOTS

Section 601. Candidate's Names

The name of any candidate for office shall be printed on the official ballot as the candidate signed the declaration of candidacy without any prefix, suffix, or title. A nickname may be included if requested pursuant to Section 506. Candidate names will be printed on the ballots in random order according to draw.

Section 602. Unopposed Candidates

Any candidate who is unopposed shall be deemed to be elected, and the candidate's name shall appear on the ballot with designation "Unopposed" printed next to the name. In the event that the election is only a council election, the unopposed candidate will not have an election in that district only. No fees for candidacy shall be refunded.

Section 603. Care of Ballots

(A) Each eligible voter shall cast only one ballot

(B) A ballot shall be issued only after the voter has signed the Signature Book and/or any other form of poll register.

(C) Election Board officials shall account for all ballots.

Section 604. Instruction on Ballot

Specific instructions to the voter may be printed at the top of the ballot. Ballots shall not be numbered or show any other lettering or identifiable markings other than those necessary to ballot processing and which assure the anonymity of the voting process, unless such markings be on a perforated "tear-off" slip to be removed prior to placing the ballot in the ballot box.

CHAPTER SEVEN
NO ABSENTEE VOTING

Section 701. **No Absentee Votes**

No absentee voting shall be permitted. Voters shall personally appear at the properly designated polling place. Physically incapacitated voters may receive assistance as described in Sections 802(D) and (E).

CHAPTER EIGHT
CONDUCT OF ELECTIONS

Section 801. Hours of Voting

(A) The polls shall be open at each polling place from 7:00 a.m. until 7:00 p.m. Any voter in line at the polling place but unable to cast a ballot before 7:00 p.m. shall be allowed to finish voting. In the event that electronic voting process is not utilized, any references to ballot boxes will be put into effect. Prior to beginning the voting, the precinct worker shall open the ballot boxes and display the empty box to all persons present to ensure that no ballots are contained therein. Each ballot box shall be locked before the voting process begins.

(B) At the close of each polling place, each locked ballot box and the contents therein shall be sealed with sealing tape and shall be immediately delivered by the Lighthorse Officer to an appropriate location for counting as has been previously designated by the Election Board.

Section 802. Method of Voting

(A) All eligible voters shall be subject to vote by secret ballot cast by the qualified voters at the time and place designated for the election.

(B) Each prospective voter upon being identified as being in the official Precinct Book, shall sign the Signature Book kept for that purpose to acknowledge receipt of a ballot, and shall be handed an unused ballot by an election precinct worker.

(C) The voter shall vote in privacy, in a voting booth, by making an identifiable mark opposite the name of each candidate for whom voting. If electronic voting methods are not used, the voter shall fold the ballot so the voter's choice cannot be seen by others, and shall personally deposit the ballot in the ballot box.

(D) Precinct workers may assist any voter who appears personally at a polling place but is unable to cast a ballot due to illiteracy, blindness or other physical limitation. Such assistance shall be limited to reading the ballot to the voter, marking the ballot as directed by the voter and depositing the ballot into the ballot box.

(E) Precinct workers may assist voters who are able to be transported to a polling place but are not physically able to enter a polling place to cast a vote. Such assistance shall be limited to reading the ballot to the voter, marking the ballot as directed by the voter and depositing the ballot into the ballot box.

Section 803. Marking the Ballot

A ballot shall show only the marking of the voter's choice and shall not show more choices than the election calls for. A person may vote for fewer candidates or offices designated by the

election without having the ballot affected. Ballots written upon or marked with more choices than designated by the election or bearing other such abuses will be rejected.

Section 804. Mutilated Ballots

If a voter mutilates a ballot or renders the ballot unusable the voter may obtain another and the mutilated ballot shall be folded and marked "mutilated" in ink. Each member of the Election Board, precinct worker, Lighthorse Officer on duty at the polling place shall sign the mutilated ballot and the ballot shall be placed in a large envelope marked "mutilated ballots." The envelope containing all mutilated ballots shall be placed in the ballot box at the end of the voting.

Section 805. Unused Ballots

Ballots unused at the end of the voting shall be securely tied together, marked "unused" in ink, signed by at least two (2) election precinct workers, and placed in the ballot box at the end of the voting.

Section 806. The Tally

(A) Tally of ballots shall be substantially in one of the forms set forth in (a) or (b) of this Section:

(1) If ballots are hand-counted: The Election Board, at Tribal Office headquarters, or other designated locations, shall unseal and unlock the ballot box(es), shall remove the ballots one by one, and as each one is removed the clerks shall read off the names of the candidates marked thereupon. At least two (2) election officials shall view each ballot, and each counter shall keep separate tally of the votes cast. Each candidate may select a watcher of their choice, not a candidate, to observe and keep a separate record of the tally of the ballots, and who shall not interfere with the tally process. After the tally is complete, all ballots, voter registers, and ballot boxes shall be transported to the United Keetoowah Band of Cherokee Indians Tribal Court House or other place designated by the Council.

(2) If Electronic Voting Devices are used: In the event the Election Board determines that technological aids are available that properly ensure the integrity of the election process, the Election Board shall have the authority to prescribe such rules, consistent with this Election Ordinance, to utilize such technological aids in a particular election, provided that a verifiable report of the tally related to a particular election be available to election officials and poll watchers. The specific procedures may vary depending on the electronic voting device actually used. In general, following the closing of the polls, the appropriate steps shall be taken to instruct the electronic voting device to provide a vote tabulation. Such tabulation shall be entered as the official vote tally.

(B) After the tally is complete, all ballots, voter registrations, ballot boxes and other election tally information shall be transported and securely retained consistent with Section 812 of this Ordinance.

Section 807. Run-Off Election In Event of a Tie

A candidate of membership on the Tribal Councilor office of the Band must receive fifty percent plus one (50% + 1) number of votes cast in order to be elected. If the abstract shows that the vote cast for two or more candidates for an office is tied, the Election Board shall supervise the Run-off Election following the same rules and procedures followed in the Regular Election. Subsequent Run-off Elections may be held in the same manner if necessary. As soon as a candidate has received a higher vote than any other candidate, no further Run-off Elections will be conducted. Runoff elections shall be further conducted as described in Section 301 of this Ordinance.

Section 808. The Abstract

At the end of the tally, the Election Board shall determine the total votes cast for each candidate. These shall be written down together with the number of rejected ballots, spoiled ballots, unused ballots, and total ballots printed, and shall be certified by each member of the Election Board signing the abstract. The abstract of votes shall be read aloud to the public and one copy of each shall be delivered to the Tribal Secretary, and the Election Board files.

Section 809. Certification of Election

The election shall be certified by the Election Board immediately after the ten (10) day period for filing an election contest expires, provided that if an election contest petition within the time period allowed, then no Certificate of Election shall be issued until after such election contest is finally decided.

Section 810. Recounts

(A) The Election Board shall conduct an automatic recount under the following circumstances:

(1) If the votes cast for two (2) or more candidates (with the highest vote) is tied, or if the highest vote is larger than the next highest vote by less than ten percent (10%) of the total votes cast for that office, there shall be an automatic recount within twenty four (24) hours.

(2) To conduct the recount, the Election Board shall open the ballot box and shall recount the vote for that office using all the un-mutilated, un-rejected ballots, rejecting any on which it is unable to determine the choice of the voter. If electronic voting systems are used, the Board may conduct the recount by hand or follow the procedures prescribed by the electronic process.

(3) The recounts shall continue until two (2) consecutive counts agree, and a new abstract shall then be prepared and made public.

(B) Alternately, any candidate or qualified voter may request a recount if the automatic recount provisions do not apply.

(1) Any request for recount of ballots must be submitted to the Election Board Chairman in writing and list the reasons for the request.

(2) The request must be submitted within five (5) business days after the election.

(3) The request must also be accompanied by a non-refundable money order or cashier's check of five hundred dollars ($500.00) made payable to the United Keetoowah Band of Cherokee Indians in Oklahoma. Said check shall be forwarded to the Election Board to be credited against the cost of the recount.

(4) The Election Board shall meet and decide within ten (10) business days of receipt of the notice whether or not the reasons listed in the request are sufficient to cause a recount of ballots.

Section 811. <u>Installment in Office: Oath of Office, Swearing in Ceremony</u>

(A) Successful candidates for office whose election results are uncontested or are not involved in a Run-off Election shall be sworn in on the first Saturday of the following January, at the regular Tribal Council Meeting. If a candidate is subject to a Run-off Election, or if the election as to a particular candidate is not final due to some cause other than a pending election contest, then the candidate shall be sworn in as soon as reasonably practicable after the election results are certified.

(B) A candidate who is involved in an election contest and who has prevailed before the Election Board and the Tribal Court may be sworn into office even though such election contest may be on appeal to the Tribal Supreme Court. A candidate so sworn into office shall, however, be subject to removal depending on the outcome of the appellate process.

(C) The administration of the oath of office and the installation of each member of the Council and each officer of the Band shall be held on the first Saturday in January, at the regular Council meeting. The incumbent Chief shall swear in the newly elected officers. In the event the incumbent Chief is unwilling or unable to swear in the newly elected officers the Chief Justice of the Tribal Supreme Court or his/her designee shall perform the duties of swearing-in the newly elected officers.

Section 812. **Retention of Ballots**

(A) The Election Board upon completion of the election and announcement of the winners shall deposit all ballots and records with the Court Clerk of the Tribal District Court to be held in a secure location for safekeeping until:

(1) The time for filing a contest to the election is passed or,

(2) Any protest which has been filed has been finally determined or,

(3) Upon final certification and installation of candidates the Court Clerk shall return all ballots and election records to the Tribal Secretary to be placed in permanent tribal records for a period of one (1) year. At that time, in the presence of the Election Board, the Court Clerk and the Secretary shall consolidate the ballot materials from all districts into one secure storage container so long as each district's ballot materials are clearly labeled and are not intermingled with those from other districts.

(4) From and after the date of official installation of said elected officials and after the one (1) year period is completed, the Tribal Secretary without any other authorization other than this Ordinance may remove the election ballots and records, except the final certification of successful candidates, and destroy them.

(B) The final Certification of Election results entered by the Election Board shall not be removed but shall be retained as a permanent public record.

Section 813. **Retention of Precinct Books**

(A) No later than 10 business days following an election, all candidates who are not parties to a run-off election shall return to the Election Board all Precinct Books they received from the Board.

(B) Candidates who are involved in a run-off election shall return all Precinct Books no later than 10 business days following the run-off.

(C) Candidates who are involved in a contested election shall be required to return all Precinct Books at the conclusion of the hearing on the contest petition as provided in Section 904.

(1) Upon written request to the Election Board, and at the Board's discretion, a candidate involved in a contested election may be permitted to retain the Precinct Book issued to the candidate to be used solely in connection with the contested election.

(2) Any candidate involved in a contested election who retains a copy of the Precinct Book without the approval of the Election Board shall be subject to a $300 fine.

(D) Failure to return the Precinct Book issued to a candidate, and all copies of such list, shall result in the forfeiture of the $300 deposit collected pursuant to Section 503.

(E) In addition to the forfeiture of the $300 deposit any candidate or any other person who has retained copies of any Precinct Book shall be subject to the following:

(1) a civil fine of $300 per copy, which fine may be enforced against the individual in the Tribal Court and may be considered as a lien against any payments that person may be entitled to receive from the Tribe; and

(2) a declaration that the candidate or individual is not eligible to run for office in the next election. This ineligibility shall not be cause to remove a successful candidate from elected office, but shall apply only to the next election.

(F) The Election Board shall destroy all Precinct Books within 30 days of the later of:

(1) The installation of elected candidates into office, or

(2) The resolution of any election appeal(s).

(3) The resolution of any discrepancies in voter information between the Precinct Books and the Voter List and Signature Books.

CHAPTER NINE
ELECTION CONTESTS

Section 901. **Grounds for Contest**

Any candidate or qualified voter of the United Keetoowah Band of Cherokee Indians in Oklahoma may contest the election results on grounds of a substantive violation(s) of the United Keetoowah Band of Cherokee Indians in Oklahoma Election Ordinance or the rules in effect which if proven would show with a mathematical certainty that the election results have been affected. All burden of proof lies with the contester.

Section 902. **Filing Fee**

(A) The filing fee for a petition contesting an election shall be as follows:

For Chief	$1,000
For Assistant Chief	$800
For Secretary	$800
For Treasurer	$800
For District Representative	$500

(B) Filing fees are payable per election result contested. Example 1: If an individual contests the election results for a District Representative and the election results for Secretary, the individual must file two separate petitions and submit two separate filing fees. Example 2: If an individual contests the election results for two separate District Representative elections, the individual must file two separate petitions and submit two separate filing fees.

(C) The filing fee for a petition contesting an election shall be deposited with the Election Board at the time of filing.

Section 903. **Contest Petition**

(A) Any petition contesting the results of an election shall be filed within five (5) business days after completion of the tally of the election and declaration of the results.

(B) The contest petition shall be filed with the Election Board along with the filing fee.

(C) The contest petition shall contain a statement in writing setting forth the individual's particular grounds for the contest. The statement shall be verified by affidavit of the contester(s) that they believe the matters and things therein contained are true.

Section 904. **Hearing on Contest Petition**

(A) The Election Board shall conduct a hearing on any contest petition no later than ten (10) days after the date the petition is filed.

(B) Written notice of such hearing shall ordinarily be mailed or delivered personally to the contester and to each candidate for the office contested. However, because time is of the essence, the Election Board may notify the contester and candidates by telephone.

(C) The hearing provided under this Section is the contester's opportunity to prove his or her case to the Election Board and shall be the contester's only opportunity to present testimony and documentary evidence to the Election Board in support of the election contest.

(D) All hearings shall be recorded and transcribed by a court reporter.

(E) The Election Board shall render its decision no later than five (5) days following the hearing and shall mail or personally deliver a copy of its decision to the contester and to each candidate for the office contested.

Section 905. **Review of Election Materials**

In conjunction with any properly filed election contest –

(A) Any party to the election contest and the Election Board shall, upon written request, have the right to view the election ballots and records in the presence of the Court Clerk and the Election Board in the Court Clerk's office. Individuals requesting to see election records must contact the Election Board to schedule a time to view election records.

(B) Any party to the contest shall be entitled to receive from the Court Clerk a photocopy of said documents certified as true and correct copies upon payment of the required copying fee, which shall be in addition to the fee paid to file the contest petition. Said certified copy shall be received as evidence by the Election Board and the Court in like manner as an original. The copying fee shall be as follows:

For Chief	$1,000
For Assistant Chief	$800
For Secretary	$800
For Treasurer	$800
For District Representative	$500

(C) A party to an election contest who fails to request access to, or copies of, election materials prior to the hearing conducted pursuant to Section 904, shall be deemed to have waived any right to access to the materials under this Section.

Section 906. Tribal Court Review

(A) A party to an election contest may appeal the findings and decision of the Election Board may appeal to the Tribal Court within five (5) business days of being notified of the decision of the Election Board.

(B) The Election Board shall be named party defendant along with the other party(ies) to the election contest. Any candidates for that office not named in the appeal may intervene. The individual Election Board members need not be made parties of such action.

(C) The Tribal Court shall conduct an expedited hearing on the matter with the right of appeal in other cases. The Court may order appropriate relief, and the decision of the court shall be a final appealable order.

(D) The Tribal Attorney shall represent the Election Board unless otherwise directed by the Council.

(E) Absent extraordinary circumstances, the Tribal Court may not consider any evidence not presented to the Election Board at the hearing conducted to Section 904.

Section 907. Harmless Error

Neither the Election Board nor the Courts shall enjoin the results of or invalidate any tribal election unless it appears by clear and convincing evidence that the numerical accuracy of the election results cannot be accurately determined to declare a clear winner with sufficient accuracy or that the error found in a said election is so manifest and substantial that the error in and of itself destroys the integrity of the election.

Section 908. Finality

The declaration of election results which is uncontested or the declaration of the election results following an election contest provided for herein shall be final.

Section 909. New Elections

(A) In the event the Election Board or the District Court order that a new election shall be held following an election contest conducted under this Chapter, such election shall be conducted within thirty (30) days under the procedures otherwise provided in Section 301 of this Ordinance.

(B) Only voters who were eligible to vote in the original election shall be permitted to vote in the new election.

(C) Further, such election shall be limited to the candidates who participated in the original election. No additional filing fee shall be required.

(D) In no event shall an order for a new election be construed as requiring a new candidate filing period or the commencement of a new election cycle.

CHAPTER TEN
SPECIAL PROVISIONS

Section 1001. Tribal Authority Not Compromised

Nothing herein contained shall ever be constructed to limit. impair, or otherwise abridge the authority of the Council of the United Keetoowah Band of Cherokee Indians in Oklahoma or other appropriate bodies of the Band, to alter; amend, or repeal any provision of this ordinance, or to enact additional provisions thereto; provided that such alternate amendment(s) or repeal(s) shall not be authorized during the period from the beginning of each election cycle until the conclusion of the election cycle.

Section 1002. Severability

The provisions of this Election Ordinance are severable and if any part or provision hereof shall be held void or invalid by a court of competent jurisdiction, the decision shall not affect or impair any of the remaining parts or provisions of this ordinance.

Section 1003. All prior Laws. Rules. and Regulations Repealed

All prior or previous ordinances, laws, rules and regulations affecting the election process are hereby repealed in their entirety and are superseded by the provisions of this Election Ordinance.

Section 1004. Effective Date

This Election Ordinance shall be effective from and after the date of approval and enactment by the Council of the United Keetoowah Band of Cherokee Indians in Oklahoma.