OMAHA TRIBAL CODE (2013)

TITLE 23. OMAHA TRIBAL ELECTION COMMISSION

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TITLE 23. OMAHA TRIBAL ELECTION COMMISSION

Source: Omaha Tribal Council Resolution No. 05-148 (6-23-05).

CHAPTER 1. GENERAL PROVISIONS

SECTION 23-1-1. Establishment of Tribal Election Commission.

(a) Pursuant to the authority vested in the Omaha Tribe by its Constitution, and particularly by Article IV, Sections m, o & q thereof, and its authority to provide for the health, safety, morals and welfare of the Tribe, the Tribal Council of the Omaha Tribe (hereinafter referred to as the Council) hereby establishes a public body known as the Omaha Tribal Election Commission (hereinafter referred to as the Commission), and enacts this Title which shall establish the purposes, powers and duties of the Commission.

(b) In any suit, action or proceeding involving the validity or enforcement of or relating to any of its contracts, the Commission shall be conclusively deemed to have become established and authorized to transact business and exercise its powers upon proof of the adoption of this Title. A copy of the Title duly certified by the Secretary of the Council shall be admissible in evidence in any suit, action or proceeding.

CHAPTER 2. PURPOSES

SECTION 23-2-1. Purposes of Tribal Election Commission.

(a) The Commission shall be organized for the Purposes of:

(1) The administration of all elections held under the provisions of the Omaha Tribal Stated Election Procedures. By this Title, the Omaha Tribal Council establishes the Omaha Tribal Election Commission as an independent body charged with running fair and impartial elections in the best interest of the Omaha people.

(2) The regulations and procedures contained in the Omaha Tribal Stated Election Procedures shall be administered by the Election Commission. In cases of disputes as to the compliance with the stated Election Procedures regulations, substantial compliance, rather than complete compliance with these regulations shall be deemed adequate.

CHAPTER 3. DEFINITIONS

SECTION 23-3-1. Definitions.

(a) The following terms, wherever used or referred to in this Title, shall have the following respective meanings, unless a different meaning clearly appears from the context:

(1) "Ballot" means a paper document printed with a list of certified candidates for elected office. Ballots shall contain a number or other identifying code so that the number of votes cast can be monitored and to prevent voters from casting more than one ballot.

(2) "Campaigning" means active participation in regular, organized efforts to solicit support for the election of, or in opposition to, specific candidates for office. Campaign activities include: making contributions in support of, or opposition to, candidates, disbursement of campaign literature or signs, canvassing (in person or by telephone) in support of, or opposition to, certain candidates, and organizing/holding meetings or gatherings. Campaigning does not include actions by which one merely expresses his/her support for a candidate(s) verbally

(3) "Candidate" means a person who has filed any necessary documents to declare such person's candidacy for an election position on the Omaha Tribal Council.

(4) "Constitution" means the Constitution of the Omaha Tribe of Nebraska, established June 18, 1934, as amended November 18, 2003.

(5) "Contribution" means the donation of money or in-kind donation of a person's efforts or services (personal or professional) in support of a particular candidate or candidates for an elected position on the Omaha Tribal Council.

(6) "Election Commission" means the five member board responsible for conducting primary, general, run-off and secretarial elections of the Omaha Tribe of Nebraska.

(7) "Election Director" an independent contractor of the Election Commission who is hired to manage the day to day duties associated with conducting a fair and organized tribal election.

(8) "Election Process" means the steps necessary to conduct a primary, general, run-off or secretarial elections of the Omaha Tribe of Nebraska and shall include such measures as election notices, registration of voters, verification of nominating petitions, certification of candidates, investigation of candidates, preparation of ballots, and tabulation of ballots.

(9) "Immediate Family Member" means father, mother, husband, wife, son, daughter, sister or brother.

(10) "Member" means a person who is duly enrolled in the Omaha Tribe of Nebraska in accordance with applicable tribal enrollment policies.

(11) "Poll" or "Polling Place" means any place designated by the Omaha Tribal Election Commission for voting to take place.

(12) "Tribal Council" means the seven (7) person governing body of the Omaha Tribe of Nebraska.

CHAPTER 4. TRIBAL ELECTION COMMISSION

SECTION 23-4-1. Appointment and Composition.

(a) The affairs of the Commission shall be managed by an Election Commission composed of three commissioners and two alternate commissioners who are all 21 years of age or older.

(b) The Commissioners shall be appointed, and may be reappointed, by the Council. A certificate of the Secretary of the Council as to the appointment or reappointment of any commissioner shall be conclusive evidence of the due and proper appointment of the commissioner.

(c) The Council shall name one of the Commissioners as Chairman of the Commission. The Commission shall elect from among its members a Secretary, and a Treasurer.

SECTION 23-4-2. Alternates to the Commission.

(a) The tribal council shall appoint a minimum of two alternates who shall attend all meetings of the Commission and be able to function as regular members as the need arises during conflict of interest situations or other absences. The Commission shall have the authority to designate the procedure for calling upon an alternate to assume the responsibilities of a regular commissioner.

(b) The alternate election commission members hall have no power, authority or vote unless they are sitting as an alternate in the place of an elected member in the case of a conflict of interest situation, disqualification, removal, resignation, or death of commission member. In the event a conflict of interest situation or disqualification issue has been resolved, or is no longer apparent, the appointed commissioner

shall resume their duties as a commissioner and the alternate shall resume their role as an alternate commissioner. Written minutes of a commission meeting shall indicate the conflict of interest and or disqualification issue was resolved or is no longer apparent.

SECTION 23-4-3. Qualifications.

(a) No candidate for office is eligible for appointment to the Election Commission. No existing member of the Election Commission may run for tribal office without prior written resignation from the Election Commission.

(b) A commissioner may be a member or non-member of the Omaha Tribe, however a commissioner may not be a member of the current tribal council or employee or judge of the Omaha tribal court.

(c) A commissioner must be at least twenty-one (21) years of age.

(d) A commissioner must have a high school diploma or G.E.D.

SECTION 23-4-4. Ethical Standards.

(a) Serving on the tribal election commission involves a substantial commitment; members of the Election Commission must be able to dedicate the time and effort necessary to fulfill this substantial commitment.

(b) Election Board members shall uphold the integrity, fairness, and independence of the Election Commission and the election process in the performance of their duties in that an independent and honorable Election Commission is indispensable to assure the respect for the election process of the Omaha Tribe. In furtherance of this requirement, the following ethical standards shall apply to Election Commission members during their term of service and to the Election Director:

(1) Election Commission members and the Election Director shall not be actively or publicly involved in the campaign of any person for the Tribal Council or other elective Omaha Tribal office.

(2) Election Commission members and the Election Director should refrain from all Tribal political activities or actions, which could be interpreted in the Tribal community as supporting any political position or candidate. This prohibition does not mean that an Election Commission member cannot engage in electoral politics at the local (village, county), state or national level.

(3) Election Commission members and the Election Director should refrain from announcing his or her views on disputed legal or political issues related to Tribal elections or candidates for elected office.

(4) Election Commission members and the Election Director shall not solicit funds or contribute to a Tribal political organization, candidate, or political event.

(5) Election Commission members and the Election Director shall refrain from making any public comments regarding the election rules and procedures unless in a public forum setting where such comments are geared at educating tribal members on the election process.

(6) Election Commission members and the Election Director should encourage members of his or her immediately family to conform to the same standards of political conduct that apply to him/her.

SECTION 23-4-5. Term of Office.

(a) The term of office shall be four years for all regular commission members and alternates. All

appointments shall be for four years, except that in the case of a prior vacancy, an appointment shall be only for the length of the unexpired term. Each member of the Commission shall hold office until his successor has been appointed and has qualified.

SECTION 23-4-6. Vacancies.

(a) Commission members or the Election Director shall notify the Tribal Council if a vacancy has occurred. All vacancies shall be filled by appointment of a replacement by the Omaha Tribal Council at the next regular Council meeting after the vacancy occurs. Such appointee shall serve only the remaining term of the Commissioner being replaced.

SECTION 23-4-7. Meetings.

(a) Meetings of the Board shall be held at regular intervals or on an emergency basis as provided by Commission resolution. The Commission shall establish their own rules, procedures and criteria for the conduct of meetings, voting, and hearing appeals and challenges.

SECTION 23-4-8. Compensation.

(a) The Commissioners shall receive compensation in the form of a stipend for their services, but shall not be entitled to compensation for expenses, including travel expenses, incurred in the discharge of their duties. A stipend of $25 per Commission meeting attended and a stipend of $100 per Election will be paid to Commission members.

CHAPTER 5. CONFLICT OF INTEREST AND DISQUALIFICATION

SECTION 23-5-1. Conflict of interest, removal, resignation.

(a) The members of the Election Commission shall disqualify themselves and withdraw from any and all functions of their positions during an election or process in which a conflict of interest exists. Such members shall resume their duties only when there is no longer a conflict of interest.

(b) The Election Commission shall have the authority, by majority vote, to disqualify any of its members in the even they continue to function in a conflict of interest situation.

SECTION 23-5-2. Removal of Commissioner.

(a) A member of the Commission may be removed by the appointing power for serious inefficiency or neglect of duty or for misconduct in office, but only after a hearing before the appointing power, and only after the member has been given a written notice of the specific charges against him at least 5 days prior to the hearing. At any such hearing, the member shall have the opportunity to be heard in person or by counsel and to present witnesses in his behalf. In the event of removal of any Commission member, a record of the proceedings, together with the charges and findings thereon, shall be filed with the appointing power a copy thereof sent to the Commission Office.

SECTION 23-5-3. Resignation of Commissioner.

(a) An Election Commission may resign his or her office at any time. Resignation is immediate upon submitting written notice to the Council, the other members of the Commission and the Election Director.

CHAPTER 6. POWERS

SECTION 23-6-1. Perpetual Succession.

(a) The Commission shall have perpetual succession in its corporate name.

SECTION 23-6-2. Powers of the Election Commission.

(a) The Commission shall have the following powers which it may exercise consistent with the purposes for which it is established:

(1) To follow and interpret the Omaha Tribal State Election Procedures.

(2) To determine the eligibility of prospective candidates for tribal political office.

(3) To appoint all election officials necessary for the proper supervision of tribal elections as set for in the Omaha Tribal State Election Procedures.

(4) To generate a list of eligible voters to be used as a voting ledger at tribal elections.

(5) To prepare the official ballots which are to be used in tribal elections and to furnish such official ballots to the election officials on the morning of the election.

(6) To certify each applicant as eligible or ineligible, notifying each applicant of the decision.

(7) To accept filings and collect filing fees for all candidates for tribal office.

(8) To prepare all necessary applications, forms and notices regarding the election process.

(9) To conduct election public assemblies and public education forums.

(10) To secure all necessary supplies and equipment for tribal elections.

(11) To investigate irregularities and nonperformance of duty and violation of tribal election rules and regulations by election officials, candidates or other persons.

(12) To recommend to the Council any supplemental rules or changes in this Title which the committee believes are necessary to achieve the purpose of this Title.

(13) To certify the results of an election in writing to the Council and Bureau of Indian Affairs.

(14) To count and validate ballots and record, through electronic means or otherwise, the number of votes cast for each candidate or for each option on the ballot.

(15) To supervise activity at the polls.

(16) To publish and post notice of all elections.

(17) To hear all challenges and appeals associated with the Omaha Tribal Stated Election Procedures and this Title.

(18) To conduct background checks on all candidates and, if necessary, staff.

SECTION 23-6-3. Duties of the Election Commission.

(a) The Secretary or designee shall keep complete and accurate records of all meetings and actions taken by the Commission.

(b) The Treasurer shall keep full and accurate financial records, make periodic reports to the Commission, and submit a complete annual report, in written form, to the Council.

(c) The Commission shall have an annual audit of its finances conducted by the Omaha Tribal Office of Management and Budget.

(d) The Commission shall complete and present an annual report, including the information concerning the annual audit, to the Omaha Tribal Council within sixty (60) days after the General Election, or if no election is held that year on or Before January 15th of each year. Copies of such report shall be provided to the Tribal Council and upon request to any tribal member.

(e) The Election Commission shall establish their own rules, procedures, and criteria for the conduct of meetings, voting, hearing appeals and challenges.

(f) The Election Commission in conjunction with the Office of Management and Budget shall establish safe handling procedures of all funds in the possession or control of the Commission and its staff.

CHAPTER 7. ELECTION DIRECTOR

SECTION 23-7-1. Policy.

(a) It is the policy of the Omaha Tribal Council that elections should be managed and conducted on a day to day basis by an outside, objective, and independent person or entity in order to ensure fair and honest elections and to avoid the appearance of impropriety or bias. In the best interests of the members of the Omaha Tribe, it is the Council's recommendation that tribal elections should be conducted by a person or entity that holds no bias or prior relationships with candidates or potential candidates. As a result, Omaha tribal preference is not mandatory in the selection of the Election Director, but general Indian preference shall remain in effect.

SECTION 23-7-2. Selection.

(a) For the initial hiring of the Election Director, the tribal council shall draft a contract for the selection of an Election Director. This initial contract shall remain in effect for up to six months. After the expiration of the initial contract, the Election Commission shall draft a contract proposal for the selection of the Election Director on an annual basis. Such proposal shall include minimum qualifications. Such proposal, upon approval by the Tribal Council, shall be publicized by appropriate means on a local and regional basis. The Election Commission shall receive submitted proposals, will rank the proposals which meet the minimum qualifications. The Election Commission may also conduct interviews, if necessary. The Election Commission shall present a recommended Election Director to the Council for approval, along with the rankings of all qualified applicants, and an explanatory statement as to why the Election Commission selected the recommended applicant.

SECTION 23-7-3. Duties.

(a) The Election Director shall be responsible for the day to day conduct and management of tribal elections under this Title, the Omaha Tribal Stated Election Procedures, and under the Tribal Constitution. The Election Director shall act under the supervision of the Election Commission, but shall have full authority and responsibility for decision making as associated with the election process.

(b) The Election Commission may recommend termination of the Election Director's contract to the Tribal Council. The Tribal Council shall have sole authority to terminate the contract of the Election Director.

SECTION 23-7-4. Status.

(a) For purposes of this Title, the term "Election Director" shall include the Election Director and/or appropriate staff. Where this title calls for action by two or more person at the same time, the term Election Director shall include the appropriate number of persons, and such persons may be make up of any combination of the Election Director and staff as appropriate and reasonable.

CHAPTER 8. OATH

SECTION 23-8-1. Oath of office.

(a) Before taking office, the Tribal Council Chairman shall administer an oath to each member of the Commission. The Election Commission members shall swear or affirm that they will uphold the Constitution of the Omaha Tribe, that they will carry out their duties faithfully and diligently, that they will make every effort prevent fraud or abuse of the election process, and that they will not engage in sanction or permit to go unchallenged conduct which could prevent a fair election.

CHAPTER 9. APPEALS

SECTION 23-9-1. Appeals.

(a) A final decision of the Election Director or the Election Commission may be appealed to the Tribal Court under the rules of the Omaha Tribal Court. Any individual seeking to appeal decisions of the Election Director, the Election Commission, provisions of this Title, or the Omaha Tribal Stated Election Procedures must first exhaust all remedies before the Election Commission, including the appeals process and attempts to mediate any dispute.

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