

**LAC VIEUX DESERT BAND OF LAKE SUPERIOR CHIPPEWA INDIANS  
ELECTION ORDINANCE**

**Section 1      General Provisions and Definitions.**

- 1.1      Statement of Purpose. The purpose of the Lac Vieux Desert Band of Lake Superior Chippewa Indians Election Ordinance (“Ordinance”) is to facilitate full participation by the Lac Vieux Desert Band of Lake Superior Chippewa Indians (“Tribe”) Tribal community in the electoral process through the enactment of standards and procedures for conducting fair, legal, and impartial elections that are consistent with the requirements the Constitution of the Lac Vieux Desert Band of Lake Superior Chippewa Indians. This Ordinance shall be liberally interpreted and construed to fulfill the purposes expressly stated herein.
- 1.2      Authority. This Ordinance has been promulgated pursuant to the duties and powers of the Tribal Council (“Tribal Council”), under Article IV, Section 1(a) of the Constitution, “[t]o promote the health, safety, education, and general welfare of the Band and its members”, and Article IV, Section 1(b) of the Tribal Constitution, “[t]o promulgate ordinance, and adopt resolutions not inconsistent with [the Constitution], and to enforce the same.”
- 1.3      Scope. This Ordinance shall govern the conduct of all elections prescribed by Article VII of the Constitution.
- 1.4      Definitions. The following terms, whenever used or referred to in this Ordinance, shall have the respective meanings stated below, which shall apply regardless of whether such terms are used in their singular or plural, capitalized or uncapitalized form:
- a.      Absentee Ballot: A Ballot used in advance of an election by those unable to attend the polls on Election Day.
  - b.      Ballot: A document used as an authorized means for a voter to record a vote.
  - c.      Business Day: Monday through Friday, not including Tribal and federal holidays.
  - d.      Candidate: A Member certified by the Election Board and otherwise eligible to run for elected office.
  - e.      Candidate Representative: A Member who is eighteen (18) years or older chosen by a Candidate to be present when Ballots are counted.
  - f.      Cast Ballot: Any Ballot that is cast by a voter in an election, whether it is cast in the prescribed manner or not.
  - g.      Certified List of Candidates: The list of Candidates certified by the Election Board as eligible to be a Candidate for a scheduled election.

- h. Circulator: An Eligible Voter who presents a Petition to Eligible Voters for their signatures on a Petition to place a ballot initiative, referendum, recall, or candidate on a ballot.
- i. Constitution: The Constitution of the Lac Vieux Desert Band of Lake Superior Chippewa Indians.
- j. Day: a calendar day.
- k. Elected Official: Any Tribal Council position or any other government position to be filled by an election.
- l. Election Day: The day that polls open for voting.
- m. Election Event Timetable: The timetable accompanying the notice of election created by the Election Board prior to each scheduled Election to reflect deadlines and important dates in the election cycle.
- n. Election Notice: The written notice distributed to Eligible Voters regarding an upcoming election that includes information regarding significant dates and forms necessary for participating in the election process.
- o. Election Official: Any Election Board member, or other individual designated by the Tribal Council through Resolution as authorized to work with the Election Board to facilitate a scheduled election.
- p. Eligible Voter: A Member of the Tribe who is eighteen (18) years of age or older on the date of the election.
- q. Executive Council Member: A Tribal Council Member holding the positions of Chairperson, Vice-Chairperson, Treasurer, and Secretary.
- r. General Tribal Council Member: A Tribal Council Member who is not an Executive Tribal Council Member.
- s. Initiative: A manner by which a Member may propose the adoption, amendment, or repeal of an ordinance.
- t. Invalid Ballot: A Cast Ballot that is not a Ballot.
- u. Member: An enrolled member of the Tribe.
- v. Petition: A document circulated seeking signatures to compel an action.
- w. Polling Site: A location within the Tribe's reservation designated by the Election Board where Eligible Voters cast Ballots in an election.

- x. Proxy Voting: A form of voting whereby a Member delegates his or her voting power to another Member to vote in his or her absence.
  - y. Recall: A process whereby an Elected Official may be removed from office by an affirmative vote by Members.
  - z. Referendum: A manner by which the Tribal Council may propose adoption, amendment, or repeal of an ordinance that requires an affirmative vote by Members to take effect.
  - aa. Residence: The place where a Member lives.
  - bb. Spoiled Ballot: Any of the following:
    - i. Any Ballot issued to a voter at a poll on Election Day that is not used and is returned by the same voter at the poll for replacement by another Ballot;
    - ii. An Absentee Ballot or Ballot that was not completed or cast in the prescribed manner;
    - iii. An Absentee Ballot or Ballot on which the intent of the voter cannot be determined;
    - iv. An Absentee Ballot or Ballot cast within the prescribed time but not in the prescribed manner.
    - v. Absentee Ballots not accompanied by a properly executed certification.
  - cc. Spoiled Choice: A Spoiled Choice is any section within an Absentee Ballot or Ballot that the Election Board is unable to discern the intent of the voter.
  - dd. Tribe: The Lac Vieux Desert Band of Lake Superior Chippewa Indians.
  - ee. Uncertified List of Candidates. An unofficial list of Candidates who have been determined eligible to run for elected office.
- 1.5 Filing Requirements. Wherever in this Ordinance a form or other document may or shall be filed with the Election Board, unless otherwise specified, such form or other document shall be delivered to the Election Board Office, at the address designated by the Election Board. Documents may only be delivered to the Election Board by one (1) of the following methods:
- a. US Mail, postage pre-paid;
  - b. Private courier service;
  - c. Electronic delivery acceptable to the Election Board; or

- d. Hand delivery.
- 1.6 Computing Time. In computing a period of time prescribed or allowed by this Ordinance and any policy and procedure enacted by the Election Board, the following shall apply:
- a. The day of the act or event initiating a period of time is not included.
  - b. The last day of the period is included unless it is a Saturday, Sunday, holiday, or a day when the Tribal Administration Offices are closed. In that event, the period runs until the next day that is not a Saturday, Sunday, legal holiday, or holiday on which the Tribal Administrative Offices are closed.

**Section 2 Election Board.**

- 2.1 Establishment of Election Board. The Tribal Council shall establish an Election Board composed of three (3) Eligible Voters. (Ref. Const. Art. VII § 5(a).)
- 2.2 Responsibilities of Election Board. The following is a non-exclusive list of the Election Boards responsibilities:
- a. The Election Board shall maintain a permanent and current list of Eligible Voters in accordance with Section 4 herein, which the Election Board shall have the responsibility to regularly review and revise for accuracy prior to holding an election.
  - b. The Election Board shall hold elections, certify election results, and settle election disputes other than allegations of impropriety by the Election Board
- 2.3 Initiative Petitions. The Election Board shall verify all Initiative Petitions and present the same to the Tribal Council.
- 2.4 Authority of the Election Board. The Election Board is authorized and empowered under this Ordinance to:
- a. Elections. Conduct, administer, and oversee the Tribe’s elections. (Ref. Const. Art. VII § 5(a))
  - b. Rules and Procedures of Election Board. Notwithstanding any Tribal Council directives or actions, the Election Board shall adopt rules and procedures as deemed necessary to carry out their functions. (Ref. Const. Art. VII § 5(f))
    - i. Any such rules and procedures shall comply with this Ordinance and the Constitution.
    - ii. No amendments may be made to the rules and procedures within sixty (60) Days of any scheduled election.

- c. Make determinations and render decisions regarding matters subject to the authority of the Election Board. All such decisions shall be final and conclusive except as provided in this Ordinance, or other Tribal law.

2.5 Election Board Prohibited Activities. No member of the Election Board shall:

- a. Be eligible to run for any Tribal government office during the term they are a member of the Election Board.
- b. Violate any ethics code, policy or code of conduct applicable to the Election Board;
- c. Participate in any conduct that is unbecoming of a Tribal government official that could affect the outcome of an Election;
- d. Circulate any Petition permitted under this Ordinance except for a Petition circulated under Article XV of the Constitution;
- e. Knowingly make public any subject matter of a confidential nature received in connection with his or her duties as an Election Board member, including but not limited to: (1) matters discussed during a closed meeting of the Election Board; (2) matters protected as confidential under Tribal Law; or (3) confidential matters related to any Candidate for office;
- f. Participate in any political activities including Tribal political protests, campaigning for any Candidate, lobbying for or taking any role involving any Referendum or Initiative, circulation of Referendum or Initiative materials, participating in community meetings involving any issue on a ballot in a Tribal election, or the development of education materials related any issue on a ballot in a Tribal election other than those materials necessary to conduct the election;
- g. Serve as a member of the Election Board when the member's personal or financial interest compromise, or in the view of a reasonable person, appear to compromise the ability of the member to fairly and objectively carry out his or her duties. A member of the Election Board who is also a Tribal employee under the direct supervision of the Tribal Council shall not be considered in violation of this provision solely based on the circumstances of such member's employment.

2.6 Appointment of Election Board. The Election Board shall be appointed by the Tribal Council using the following procedure:

- a. At the direction of the Tribal Council, a public posting shall be made soliciting interest from Tribal Members to serve on the Election Board sixty (60) Days prior to the expiration of the currently appointed Election Board. The public posting shall request that those individuals interested in appointment to a position on the Election Board submit a letter of interest to a designated member of the Tribal Council.

- b. The public posting to fill a vacant Election Board seat shall be for a thirty (30) Day period.
  - c. No less than Fifteen (15) Days prior to the expiration of the currently seated Election Board, the Tribal Council shall consider those Tribal members who submitted letters of interest, ensuring all those who are considered meet the eligibility requirements under the Constitution and this Ordinance.
  - d. The Tribal Council shall appoint three (3) eligible individuals, from those that submitted letters of interests, by secret Ballot. The three (3) eligible individuals with the highest vote count shall be selected as members of the Election Board.
  - e. The Tribal Council Secretary shall notify the newly appointed Election Board members as soon as practicable following their appointment with written confirmation of the appointment.
- 2.7 Term. Election Board serve a three-year term, commencing the first Day of the month following appointment. (Ref. Const. Art. VII § 5(d))
- 2.8 Confidentiality. All Election Board members shall sign a confidentiality statement that shall remain in effect for the duration of his or her term.
- 2.9 Eligibility to Serve on Election Board. To be eligible for appointment to the Election Board, an individual must be:
- a. at least eighteen (18) years of age,
  - b. a Member; and
  - c. an eligible voter.
- 2.10 Voluntary Resignation.
- a. An Election Board member may voluntarily resign his or her position effective upon delivery of a written letter of resignation to the Election Board Chair or Vice-Chair.
  - b. As soon as practicable, the Election Board Chair shall forward the letter to the Tribal Council and request that the Tribal Council appoint an individual to fill the vacated position.
- 2.11 Procedure to Fill Vacancy. Section 2.6 shall govern the procedure to fill a vacancy on the Election Board, unless the vacancy occurs within sixty (60) Days of an Election Day, in which case, the public posting shall be for ten (10) days and the Tribal Council shall call a Special Meeting to consider those interested as soon as practicable to appoint as many individuals as required to fill the vacated positions in the same manner as described in Section 2.6 (c) and (d).

## 2.12 Removal for Cause.

- a. The Tribal Council may remove an Election Board member, by a majority vote after a hearing under this Section, for any of the following reasons:
  - i. Failure to perform the functions of the position, including but not limited to attending meetings of the Election Board;
  - ii. Incapacity, physical disability, or mental disability, to the extent that the Election Board member is incapable of exercising judgment about or performing the functions of the position;
  - iii. Conviction of a felony or any crime involving dishonesty or moral turpitude while holding office; or,
  - iv. Engaging in any other prohibited activity included in Section 2.5 or for any Impropriety.
- b. Hearing Before Tribal Council Following a Vote for Removal.
  - i. Upon a Tribal Council motion for a Resolution to remove an Election Board member for cause, the Tribal Council shall schedule a hearing on the motion to allow at least fourteen (14) Days advanced notice of the hearing and notify the Election Board member of the pending motion for removal for cause.
  - ii. Except instances where the Tribal Court has found an impropriety, the Election Board member who is the subject of the motion for removal shall be given the opportunity to present and respond to the evidence, including witnesses, supporting the allegations of cause. In instances where the Tribal Court has found an impropriety, the Tribal Council may not serve in an appellate capacity and must accept the Tribal Court finding. The culpable person may only present and respond to evidence related to why removal is inappropriate even though the Tribal Court found an impropriety.
  - iii. Within thirty (30) Days after the conclusion of the hearing the Tribal Council shall vote on the motion for removal for cause.
  - iv. A vote to remove an Election Board member shall be documented by a Tribal Council Resolution that sets forth the specific facts, circumstances, and any documentation supporting removal. A copy of the Tribal Council Resolution and all supporting documentation must be personally served upon the Election Board member subject to the Tribal Council Resolution within three (3) Days from the date of removal.

## 2.13 Impropriety by an Election Board Member.

- a. The term “impropriety” means conduct that violates the law, standards of ethical conduct, conduct in bad faith, or conduct that undermines a Board Member’s independence, integrity, or impartiality. An impropriety must be more than an error or misunderstanding with respect to the application of the law, or an arguable difference regarding the meaning or applicability of laws. An impropriety must be more than a disagreeing with the decisions of the Election Board. An impropriety must be more than mere negligence. By example, an impropriety shall include, but is not limited to:
  - i. A breach of confidentiality required under this Ordinance that is more than a mere disclosure (see § 2.5(e)) and affects or alters the outcome of an election or causes actual harm,
  - ii. Campaigning for anyone running for Tribal elected office, whether or not the person is a Candidate, or on behalf of any Tribal Initiative, Referendum or Recall;
  - iii. Using the position of Election Board Member to promote or otherwise assist any person running for office, including using the position to advance the Board Member’s own candidacy,
  - iv. Failing to perform the duties of the office or uphold the Constitution and laws of the Tribe to affect any Tribal election;
  - v. Circulating Petitions related to any Tribal election,
  - vi. Jeopardizing the integrity of the election process by accepting money or other gifts,
  - vii. Donating money to any Tribal Candidate, Initiative, Referendum, or Recall, or,
  - viii. Tampering with, falsifying, or otherwise adversely affecting the Ballots or otherwise compromising any Polling Site.
- b. Tribal Court Procedures. The Tribal Court shall have original jurisdiction over allegations of impropriety against any Election Board member. Any Tribal Court decision and order may be appealed to the Tribal Court of Appeals. (Ref. Const. Art. VII § 5(e)).
  - i. Any allegations of impropriety shall be brought by an original action filed with Tribal Court according the Tribal Court Rules.
  - ii. Allegations of impropriety may only be brought against an individual Election Board member and not against the Election Board itself. An



action alleging impropriety may be brought by a Member or the Tribal Council.

- iii. Nothing in this subsection abrogates or otherwise waives tribal sovereign immunity from unconsented suit for Election Board Members for official acts or for the performance of official duties.
- iv. When necessary, the Tribal Court shall hear and dispose of any allegations of impropriety in an expedited procedure in order to ensure the least disruption to the Election process and any scheduled Election.
- v. Burden of Proof. Impropriety must be proven by clear and convincing proof. The determination of whether an impropriety exists is an objective one, based not on the beliefs of the petitioner, but on the assessment of a reasonable impartial onlooker apprised of all the facts. A petitioner must prove (a) that there was an impropriety and (b) that the impropriety was more likely than not to have changed the outcome of the election.
- vi. Remedies. If, after being heard, the Tribal Court determines that an Election Board member has committed an impropriety, the Tribal Court may order actual damages and other equitable relief against the culpable person.
- vii. The Tribal Court may award costs and attorney fees against any petitioner for frivolous claims.
- viii. Nothing in this subsection precludes criminal prosecution.
- ix. The Tribal Court may not stop or otherwise interfere with an ongoing election process based on an allegation or finding of an impropriety. However, the Tribal Court may make such a recommendation to the Tribal Council if the Tribal Court finds by clear and convincing evidence that its findings of impropriety do not allow for the election to proceed in a fair manner or as required under the Ordinance. If the Tribal Council receives a recommendation pursuant to 2.13 (e)(iii), the Tribal Council may stop or pause any ongoing election by a two-thirds vote of the Tribal Council, in which case, the Tribal Council shall restart or modify the election timetable as necessary to ensure a fair election and ensure the requirements of Ordinance are met.

2.14 Election Board Funding. Tribal Council shall approve a budget presented by the Election Board according to the budget process for tribal government departments on an annual basis. Election Board Member compensation shall be included in the annual Election Board budget.

2.15 Contractors and Consultants. The Election Board may, subject to budget limitations, government and accounting policies, and contract approval by the Tribal Council, engage

contractors as needed to assist the Election Board in conducting elections and carrying out its responsibilities under this Ordinance. The Election Board may engage consultants, also subject to budget limitation and contract approval by the Tribal Council, to provide training for the Election Board as the Election Board deems appropriate.

- 2.16 Election Board Office. During the election process, the Election Board shall ensure that the Election Board Office has regularly staffed office hours which are clearly posted outside the Election Board Office.

### **Section 3 Persons Entitled to Vote.**

- 3.1 Eligible Voter. Any enrolled Member who is eighteen (18) years of age or older on the date of an election shall be eligible to vote. There is no required voter registration for elections conducted pursuant to this Ordinance.

### **Section 4 Eligible Voter List.**

- 4.1 At least sixty (60) days before Election Day, the Election Board shall request, in writing, and the Enrollment Clerk shall deliver, a list of all Tribal members. The list shall identify all Members who will be eighteen (18) years or older by the Election Day. The list shall include mailing addresses for all Tribal members. A request made under this section shall be deemed to have met the authorizing resolution requirement under Section 10.10(d) of the Enrollment Ordinance and allow the Enrollment Clerk to release such information to the Election Board.
- 4.2 The eligible Voter List shall include space for the signature or mark of each Eligible Voter next to his or her name, as such space shall be used on Election Day to record the Eligible Voter's signature or mark.

### **Section 5 Notice of Election.**

- 5.1 Unless otherwise provided for in this Ordinance, at a date not to exceed forty-five (45) Days before an Election Day, the Election Board shall send notice of the upcoming election to all Eligible Voters via U.S. Mail.
- a. The notice shall include the date, time, and Polling Site for the election, and the offices or issues to appear on the Ballot, and the Election Event Timetable.
  - b. The Election Board shall designate the election Polling Site provided that it is located on the Reservation.
  - c. The notice shall include information outlining the procedures for Absentee voting, specifically including, but not limited to, the procedure to receive an Absentee Ballot.
- 5.2 The Election Board shall post notice at the Tribal Administrative Offices, Election Board Office, and any other Tribal Council approved method of communication, electronic or otherwise.

## **Section 6      General and Special Elections.**

- 6.1      General and Special Elections shall be called in accordance with the Constitution. (Ref: Const. Art. III § 1(e); VII §§ 2(a), 2(b); see also Art. VIII § 1(c)(d) and (2); and Art. IX §1(h)).

## **Section 7      Qualification for Candidacy.**

- 7.1      Qualifications for Tribal Chairperson and Vice Chairperson. To be eligible to be a candidate for the office of Chairperson or Vice Chairperson, a person must be a member of the Tribe who has resided within a fifty (50) mile radius of the Lac Vieux Desert Reservation for at least six (6) months prior to the election and be at least twenty-five (25) years of age as of the date of the election. (Ref. Const. Art. §4(a)).
- 7.2      Qualifications for Other Tribal Council Positions. To be eligible to be a candidate for other Tribal Council positions, a person must be a member of the Tribe who has resided within a fifty (50) mile radius of the Lac Vieux Desert Reservation for at least six (6) months prior to the election and be at least eighteen (18) years of age as of the date of the election. (Ref. Const. Art. §4(a)).
- 7.3      Disqualification from Candidacy and Rehabilitation. No person shall be eligible to be a Candidate for election to the Tribal Council who has been convicted of any felony under Federal, state or tribal law, *unless* such person has not been convicted or imprisoned for such felony within the preceding ten (10) years or the Tribal Judiciary, in accordance with such rules as it shall establish, certifies that the person in question is rehabilitated. A Candidate must receive a judicial determination regarding rehabilitation prior to the Candidate Petition filing deadline. A finding of rehabilitation after the Candidate Petition deadline will not be accepted. (Ref. Const. Art. VII § 4(b)). To make any determination under this Section, the Election Board shall consider the laws under which the person was convicted or imprisoned.
- 7.4      Other Disqualifications. Any Candidate may be disqualified for violation of this Ordinance, as described herein, or otherwise becoming ineligible after an initial determination of eligibility.
- 7.5      Residency Requirement. Fifty (50)-Mile Radius of the Reservation shall be determined in accordance with Addendum A attached hereto.

## **Section 8      Candidate Process.**

- 8.1      Candidate Petition. The Election Board shall post a notice that Candidate Petitions are available at the Tribal Administrative Offices and any other locations that are commonly used to post notices. The notice shall be posted no later than ninety (90) days before a General Election Day and no later than ten (10) days before the filing deadline for Candidate Petitions in Section 8.3.
- 8.2      Notice of Candidacy. A Member eligible for candidacy may become a Candidate by

completing and filing a Candidate Petition by the deadline prescribed in Section 8.3. A Member may use a Circulator to complete and file a Candidate Petition.

8.3 Filing Deadline. All Candidate Petitions must be filed with the Election Board at least thirty (30) Days before an Election Day.

8.4 Candidate Petition Requirements. Candidate Petitions must include:

- a. The Candidate's physical address;
- b. The Candidate's phone number and email (if applicable). By providing an email address, all future correspondence from the Election Board to the Candidate will be deemed properly served when emailed to the email address provided by the Candidate.
- c. The Circulator mailing address, phone number, and email (if applicable);
- d. The Elected Office for which the Candidate intends to run;
- e. Proof of Tribal Membership;
- f. An Affidavit of Eligibility;
- g. A notarized Background Authorization form;
- h. Proof of current residence by any two of the following documents:
  - i. Valid State Issued Drivers' License or State Identification Card.
  - ii. Utility bill or credit card bill issued within the last one hundred eighty (180) days in the name of the Candidate and showing the Candidate's current physical address (electronic copies are acceptable).
  - iii. Account statement from a bank or other financial institution issued within the last one hundred eighty (180) days in the name of the Candidate and showing the Candidate's current physical address (electronic copies are acceptable).
  - iv. Mortgage, lease or rental agreement in the name of the Candidate and showing the Candidate's current physical address. (Lease and rental agreements must include the landlord's telephone number.)
  - v. Life, health, auto or home insurance policy in the name of the Candidate and showing the Candidate's current physical address.
  - vi. Federal, state or local government documents in the name of the Candidate and showing the Candidate's current physical address.

- vii. Auto title and registration in the name of the Candidate and showing the Candidate's current physical address.
- viii. Or any document determined by the Board that clearly and unequivocally demonstrates proof of residency.
- i. A signed statement that the information contained in the Candidate Petition is truthful and that the Candidate will abide by the Rules of Candidacy described in Section 13 of the Election Ordinance; and
- j. Proof of Payment of the requisite fee for Candidacy as determined by the Election Board pursuant to Section 35 of this Ordinance.

8.5 The Election Board shall timestamp and initial each Candidate Petition upon filing.

**Section 9 [RESERVED]**

**Section 10 Determination of Eligibility for Candidacy.**

10.1 Within five (5) Business Days after the Candidate Petition Filing Deadline, described in Section 8.3, by majority vote, the Election Board shall make an initial determination of the Member's eligibility to run for Elected Office which shall include:

- a. Verification of the signatures on the Candidate Petition;
- b. A residency determination; and
- c. A background investigation that covers the ten (10) years before Election Day.
  - i. The background investigation shall be a national search of federal and state jurisdictions for any and all federal and state felony convictions, including a search for any imprisonment. If possible, the Election Board should consider convictions in any Tribal jurisdictions.
  - ii. The Election Board shall keep all background investigations confidential.

10.2 Candidates must always maintain the qualifications required by Section 7. Should a Candidate fail to meet the necessary qualifications, the Election Board shall immediately declare the Candidate ineligible for candidacy and remove the Candidate's name from all ballots, if necessary.

10.3 The Election Board shall send written notification to any ineligible Member outlining the grounds for ineligibility or misconduct and the right of the Member to dispute the determination. Notification shall be made by certified mail, return receipt requested to the Member's residence, as identified on the Nominating Petition, or any other means deemed suitable by the Election Board.

10.4 At the close of each business day, the Election Board shall post a list containing the

Candidate Petitions filed, identifying the names and positions sought.

## **Section 11     Uncertified List of Candidates.**

- 11.1     Within 10 days after the Candidate Petition Filing deadline described in Section 8.3, the Election Board shall post an Uncertified List of Candidates at the Tribal Administrative Offices, Election Board Office, and, if available, the Election Board website.
- 11.2     The Uncertified List of Candidates shall be based upon the Election Board's initial Candidate eligibility determinations.
- 11.3     Eligibility Dispute and Misconduct Procedure.
- a.     Any Member, including the candidate determined to be ineligible may file a dispute of a candidate's eligibility on a form provided by the Election Board.
    - i.     A dispute must be filed by close of business within three (3) business days after receipt of any determination of ineligibility by the Election Board or the posting of the Uncertified List of Candidates.
    - ii.    The Election Board shall review and decide any dispute within two (2) Business Days of receipt of a dispute. At its sole discretion, the Election Board may hold a hearing on any eligibility dispute.
    - iii.   The Election Board decision shall include:
      - a.     A detailed statement explaining the basis for the Election Board's decision;
      - b.     Whether the Member remains eligible to be a Candidate.
  - b.     The determination of the Election Board shall be by majority vote and the vote count shall remain anonymous. The determination is final. Any findings under Sections 2.12 or 2.13 are not a basis to overturn an eligibility determination following the procedures in this subsection.

## **Section 12     Compilation and Publication of Final Ballot.**

- 12.1     Following the conclusion of any disputes permitted under Section 11, the Election Board shall prepare, certify, and post a Certified List of Candidates and create a final Ballot. Unless otherwise addressed through the use of electronic Ballots, preparation of the Ballot shall be confidential.
- 12.2     The Election Board may create a sample ballot in order to acquaint Eligible Voters with the ballot and voting procedure.

- 12.3 The Election Board shall provide the appropriate number of ballots to ensure each Eligible Voter may vote as well as sufficient ballots to allow for voter error.
- 12.4 Ballot Criteria. All Ballots shall meet the following criteria:
- a. All Ballots shall be printed in such a way as not to identify the voter (i.e. no names, no identifying number corresponding to any voter, etc.).
  - b. All Ballots shall be printed on paper of a thickness, color, size, etc., that will render it impossible to look at the back and determine marked votes as well as to prevent unauthorized duplication of the Ballot.
  - c. Ballots shall be different colors for each election (e.g., primary election, general election); When authorized by Special Election, Initiative and Referendum ballots shall also be different colors.
  - d. All Ballots shall be marked either “Ballot” or “Absentee Ballot” accordingly.
  - e. All Ballots shall include the date of the election for which it is valid.
  - f. All Ballots shall include instructions stating the number of candidates for each office for which a voter may lawfully vote.
- 12.5 The order in which names appear on the Ballot shall be determined by drawing. The Election Board Chair shall draw names at an open meeting. Notice of the open meeting shall be publicly posted at the Tribal Administration Offices for at least three (3) days.
- a. The Election Board Chair shall, in full view of those present at the meeting, clearly write or print the name of each Candidate for a position or positions on separate pieces of paper measuring equal in size, color and type of paper.
  - b. There shall be a separate drawing for each office.
  - c. The papers shall be folded in half one (1) time so that the name is not visible and shall be placed into a container selected by the Election Board.
  - d. The Election Board Chair shall draw one (1) paper at a time, and the first name shall appear first on the Ballot, the second drawn shall appear second on the Ballot, and so on until all names, for all positions, are drawn.
- 12.6 After printing, Ballots and Absentee Ballots shall be locked or otherwise secure from access by any person other than an Election Board Member until they are issued.
- 12.7 Any Candidate may voluntarily remove his or her name from the Ballot prior to the Election Day. Upon receiving a timely written request from the Candidate, the Election Board shall remove the Candidate’s name from the Ballot.

- 12.8 In the event any Candidate appearing on the Ballot dies or withdraws his or her name from consideration for office, or is otherwise is determined ineligible, prior to the Election Day, and their name cannot be removed from the Ballot, the Election Board shall post a notice of this fact at the Tribal Administration Building and within the Election Board Office. Unless otherwise provided by Tribal law, votes cast for a deceased Candidate or one that has withdrawn his or her name for consideration or has been determined ineligible shall be considered a Spoiled Choice as provided in Section 20.3(a).

### **Section 13 Conduct by Candidates.**

- 13.1 Candidates running for office shall conduct themselves in the highest ethical standards and shall avoid tactics referred to as “mud-slinging” during the campaign.
- 13.2 Candidates for election must not use their current elected or employment position with the Tribe to influence or coerce others to vote in his or her favor.
- 13.3 On Election Day, Candidates are prohibited from campaigning within a one hundred and fifty (150) foot radius from the Polling Site.
- 13.4 Consistent with the Tribe's personnel policies, a Candidate must not work any campaign during working hours.
- 13.5 Candidates shall remain eligible under Section 10 at all times during an Election.
- 13.6 No Candidate or Member may use Tribal assets or resources to campaign for elective office.
- 13.7 Candidates must not conduct themselves in a manner that compromises or is otherwise conflicting with the integrity or best interests of the Tribe.
- 13.8 Any Member may submit written allegations of misconduct by a Candidate to the Election Board. The Election Board may investigate any allegations as it deems appropriate.
- 13.9 Within three (3) days after receiving any allegations of misconduct, the Election Board shall adhere to the procedures under Section 10 and preside over any dispute according to the procedures in Section 11.

### **Section 14 RESERVED**

### **Section 15 Absentee Voters and Absentee Ballot Application.**

- 15.1 Eligibility. Eligible Voters who are unable, for any reason, to vote at the designated Polling Site on Election Day shall be entitled to vote by Absentee Ballot.
- 15.2 Absentee Ballot Application. An Eligible Voter shall request an Absentee Ballot by using the application provided by the Election Board.



- a. The Absentee Ballot Application may be amended by the Election Board as needed but must be finalized no fewer than sixty (60) days prior to the last day for Eligible Voters to request an Absentee Ballot application.
- b. Applications for an Absentee Ballot must be received by the Election Board by 3:30 p.m. Central five (5) Business Days before Election Day. It is the responsibility of the eligible Absentee Voter to ensure that Absentee Ballots are received via mail by the deadline set forth in this Ordinance.
- c. Only those who have filed an application for an Absentee Ballot shall receive an Absentee Ballot.

**Section 16 Absentee Ballot Packet and Absentee Ballot Procedure.**

- 16.1 After receiving an Application for an Absentee Ballot, the Election Board shall date and time stamp the Application, and ensure the Application is compliant and that the applicant is an Eligible Voter before mailing an Absentee Ballot to the applicant.
- 16.2 The Election Board shall maintain an official list of Eligible Voters who have been provided Absentee Ballot packets.
- 16.3 Absentee Ballot Packet. Along with an Absentee Ballot, the Election Board shall include:
  - a. An unsealed envelope marked "Absentee Ballot Envelope."
  - b. An unsealed envelope marked "Certification Envelope."
  - c. An unsealed envelope pre-addressed to the Election Board.
  - d. An instruction page for completing the Absentee Ballot that includes:
    - i. A statement that falsification of any Absentee Ballot constitutes a Voting Violation under this Ordinance.
    - ii. A statement explaining the consequences of engaging in a Voting Violation under Section 33.1.
    - iii. The timeframe to submit the Absentee Ballot.
    - iv. The office and issues on the Ballot.
    - v. The number of votes the voter may make on the Ballot.
    - vi. After marking the Ballot, that it is to be sealed in the "Absentee Ballot Envelope" A statement that the:
      - 1. Certification must be signed;

2. Certification and the sealed Absentee Ballot Envelope must be sealed in the “Certificate Envelope”; and that the,
  3. Certificate Envelope must be placed in the pre-addressed envelope.
- vii. A statement that the Absentee Ballot must be mailed to the Election Board by the predetermined deadline.
  - viii. A statement that any Absentee Ballot not received by the Election Board either at the Election Board Office or before the United States Post Office close of business on the day before Election Day will be invalidated.
- e. An absentee certification statement as follows:

*I hereby certify that I am a Member of the Lac Vieux Desert Band of Lake Superior Chippewa Indians; that I will be eighteen (18) years of age or older at the election date and am entitled to vote in the election to be held on [date of election] and that I will not be voting in person at the Polling Site.*

*I further certify that I marked the enclosed ballot so that no other person could see my vote.*

16.4 Replacement Absentee Ballots Prior to Election Day. Before the submission deadline established by this Section, if an Absentee Voter demonstrates that an Absentee Ballot has been lost, spoiled, or mutilated, the Election Board shall issue another Absentee Ballot. To obtain a replacement Absentee Ballot, the Absentee Voter shall be required to sign an affidavit indicating that he or she has lost the previously issued Absentee Ballot.

16.5 Processing of Absentee Ballots.

- a. Before any Absentee Ballots are issued, the Election Board shall ensure the Absentee Ballot Box is empty, then lock the Absentee Ballot Box and deliver it to the Tribal Police Department. Upon receipt of an Absentee Ballot from a voter, the Election Board shall immediately lock all Absentee Ballots in a designated Absentee Ballot Box. The Tribal Police shall hold the Absentee Ballot Box and the key to the lock until the polls have closed and only Election Officials remain at the Polling Site.
- b. At least two members of the Election Board supervised by one Tribal Police Officer shall collect all mailed Absentee Ballots on the day before Election Day. A written record with signatures from the Tribal Police Department and two (2) Election Board Members shall be recorded with the Election Board.
- c. The Election Board shall process the Absentee Ballots for counting as follows:
  - i. Unseal the Absentee Ballot box.

- ii. The Election Board shall then open the outer envelopes and the Certification Envelope.
  - iii. All sealed “Absentee Ballot” envelopes associated with valid certifications shall be immediately placed in the Absentee Ballot box. The official list of Eligible Voters required by Section 4 shall be marked to indicate those Eligible Voters who returned Absentee Ballots with valid certificates.
  - iv. Any Absentee Ballots associated with non-complying Certifications shall be labeled “VOID” and left unopened.
  - v. Any Absentee Ballots not sealed properly in the inner envelope labeled “Absentee Ballot” shall be considered a Spoiled Ballots and shall be folded and placed in the outer envelope they were contained in. The outer envelope shall then be marked “Spoiled.”
  - vi. The outer envelopes containing valid certifications shall be bound together, all envelopes marked “Spoiled” shall be bound together, all valid envelopes labeled “Absentee Ballot” shall be bound together, and all envelopes marked “VOID” shall be bound together. All bundles shall be placed in the Absentee Ballot box. The Absentee Ballot box shall then be resealed and shall not be opened again until the closing of the Polls on the day of the election.
- d. Procedure for Absentee Ballots received after deadline. All Absentee Ballots received after the deadline shall be date and time stamped upon receipt, labeled “VOID,” and not counted. All “VOID” Absentee Ballots shall be retained by the Election Board.

16.6 Absentee Ballot Record. The Election Board shall keep record of all Absentee Ballots issued and retain all Absentee Ballot applications received with the date of receipt stamped thereon.

## **Section 17 Primary Election Procedure.**

- 17.1 Any Primary Election held shall be conducted within at least thirty (30) days following the Candidate Petition deadline and within at least sixty (60) days before the General Election.
- 17.2 Any Primary Election shall be conducted in the same manner as a General Election with respect to, but not limited to the qualification of Candidates, notification to Candidates compilation of the Ballot, and notices to Eligible Voters.
- 17.3 Primary Election Prerequisites. The Election Board will hold a Primary Election when:
- a. Ten (10) or more Candidates are determined eligible to run for General Council Member positions. If less than ten (10) Candidates are determined eligible to run

for General Council Member positions, those positions will not be included on the Primary Ballot.

- b. Three (3) or more Candidates are determined eligible to run for any Executive Council position. Executive Council Member positions in which one (1) or two (2) candidates have been determined eligible to run for an Executive Council Member position will not be included on the Primary Ballot.

17.4 Primary Election Winners.

- a. General Council Positions. Those Candidates with the ten (10) highest vote counts.
- b. Executive Council Positions. The two (2) highest vote counts for each Executive Council position.

17.5 Primary Tie Vote. See Section 23.1 of this Ordinance.

**Section 18 Polling Site Procedure.**

- 18.1 Election Board Member Onsite. At least two (2) Election Board members shall be present at the Polling Site on Election Day at all times.
- 18.2 If an Election Board Official must leave the Polling Site, he or she is prohibited from discussing any election matters with anyone.
- 18.3 Polls shall be open from 8:00 am to 8:00 pm Central, on Election Day. The Election Board must prepare the Polling Site at least one (1) hour before the polls open.
- 18.4 No campaigning, lobbying, or electioneering is permitted at the Polling Site or within a one hundred fifty (150) foot radius of the Polling Site. Election Board members present are to monitor and verify that no campaigning, lobbying, or electioneering takes place at or within a one hundred fifty (150) foot radius of the Polling Site. Violations are to be reported to the Tribal Police for enforcement.
- 18.5 No alcoholic beverages or illegal substances are permitted at the Polling Site or within a one hundred fifty (150) foot radius of the Polling Site entrance or exit. Election Board members present are to monitor and verify that no alcoholic beverages or illegal substances are within a one hundred fifty (150) foot radius of the Polling Site. Violations are to be reported to the Tribal Police for enforcement.
- 18.6 Tribal Police will be present to maintain peace while votes are being cast at the Polling Site. Tribal Police shall enforce any reported or observed violations of Sections 18.4, 18.5, and 33.2, as well as any violation of any rules posted pursuant to Section 18.10.
- 18.7 Each Election Board member present at the Polling Site at the start of polling hours shall inspect the Election Day Ballot box prior to opening the polls to verify that it is empty.

- 18.8 During an Election Day, the Ballot box is to remain locked and shall never leave the presence of the Election Board members.
- 18.9 The Election Board is to close and lock the Polling Site doors at 8:00 pm Central.
- a. Those Eligible Voters who are in line at 8:00 pm Central will be permitted to move forward into the Polling Site building prior to the doors being closed and locked.
  - b. Those Eligible Voters who are permitted to enter the Polling Site after 8:00 PM Central shall be permitted to vote.
- 18.10 The Election Board shall clearly post any rules or procedures at the Polling Site on the Election Day.
- a. In addition, the Election Board shall post voting instructions and a sample Ballot that accurately shows, as it appears on an actual ballot, the arrangement of the offices, Candidates, and questions on which the voters are to vote.
  - b. The voting instructions and sample Ballot shall be located at a place where voters must pass to reach a voting booth.

**Section 19 Voter List; Voting on Election Day.**

- 19.1 An Eligible Voter shall provide identification and sign the Eligible Voter list to obtain a Ballot. Any voter who signs an “X” shall have this mark witnessed and signed by two (2) Election Board Members.
- 19.2 All votes shall be by secret Ballot and be conducted in accordance with this Ordinance, and any procedures instituted by the Election Board. (Ref. Const. Art. VII § 3(b))
- 19.3 Acceptable forms of identification:
- a. The following forms of identification shall be accepted by the Election Board on Election Day:
    - i. Current Tribal Identification with picture.
    - ii. Valid State Identification with picture.
    - iii. Valid Drivers’ License.
    - iv. Current Military Identification with picture.
    - v. Current Passport.

- vi. Marriage Certificate along with any one (1) of items 1-5.
- vii. Order of Name Change along with any one (1) of items 1-5.
- b. The Election Board has the ultimate responsibility to determine forms of identification that reliably confirm an individual's identity. In the event an individual listed on the Eligible Voter presents a form of identification not listed in Section 19.3(a), the Election Board may decide by unanimous vote to allow an individual to cast a Ballot.

#### 19.4 Request to Vote at Polling-Site by Absentee Voter

- a. If an Eligible Voter who has applied to vote by Absentee Ballot loses his or her Absentee Ballot, or fails to return an Absentee Ballot for any reason, he or she may vote at the Poll-Site on the scheduled date of election so long as the Eligible Voter presents the Absentee Ballot he or she received to an Election Board member who shall review the official list of Eligible Voters approved to receive an Absentee Ballot packet to ensure that the person has not already voted by Absentee Ballot..
- b. If the Eligible Voter states that he or she has lost his or her Absentee Ballot, the Eligible Voter must, prior to obtaining a Polling Site ballot, sign an affidavit stating that he or she received an Absentee Ballot, lost the Absentee Ballot, and did not vote via that method. The Election Board shall check the official list of Eligible Voters approved to receive an Absentee Ballot who applied to vote by Absentee Ballot to ensure that the person has not already voted by Absentee Ballot, the Election Board shall provide an official Ballot as used on Election Day in lieu of an Absentee Ballot to the Eligible Voter only if the Eligible Voter has not already returned an Absentee Ballot.

19.5 There shall be no proxy voting permitted at any time or under any circumstances.

19.6 Disabled Voters. Election Board Members are not permitted to assist any Eligible Voter cast a vote, including but not limited to, those that are disabled.

- a. An Eligible Voter who is disabled or unable to walk to the voting booth unassisted may request and use the assistance of another Eligible Voter. That Eligible Voter who provides assistance shall not remain at the voting booth while the assisted Eligible Voter makes his or her selection on the Ballot. Alternatively, the Election Board may make other appropriate accommodations to allow privacy for the Voter to cast a Ballot.
- b. An Eligible Voter who is legally blind or otherwise unable to see and unable to mark the Ballot on his or her own may request and use the assistance of another Eligible Voter to mark their Ballot. At least two Election Board members shall witness the marking of the Ballot.

- c. The Election Board must ensure that there are handicap accessible entry and exits to the polling site and voting booths.
- 19.7 Should any voter spoil a Ballot, the voter shall notify an Election Board member, and in the presence of the Election Board member, fold and seal said Spoiled Ballot in an envelope marked “Spoiled Ballot”. An Election Board member shall then provide the voter another Ballot in the same manner that the first one was provided. The Election Board member shall retain the Spoiled Ballot for the election record.
- 19.8 Once the voters have cast their Ballots, voters must then immediately leave the Polling Site.

**Section 20 Ballot Count.**

- 20.1 Following the last vote being cast, the Election Board shall immediately commence counting the Ballots in accordance with this Ordinance and the policies and procedures of the Election Board.
- 20.2 After the polls have closed, the Chairperson of the Election Board, in the presence of the Election Board, shall unlock the Polling Site Ballot Box.
- 20.3 Before the Vote Count, the Election Board Chairperson shall verbally announce that no individual shall be authorized to leave and re-enter the ballot counting area while counting is in progress.
- 20.4 Tribal Police will be present at the Polling Site to maintain the peace during the counting of the Ballots.
- 20.5 Candidate Representatives. Each Candidate may choose one (1) representative to be present during the vote count by the Election Board. (Ref. Const. Art. VII § 5(g)).
- a. Each Candidate Representative must abide by the Candidate Representative Rules of Conduct prescribed by the Election Board.
  - b. A violation of the Candidate Representative Rules will result in the Candidate Representative being expelled from the Polling Site during the vote count and may result in criminal penalties.
  - c. A Candidate must file notice of any designated Candidate Representative with the Election Board at least five (5) days before Election Day.
- 20.6 Counting Ballots. Unless otherwise provided for by electronic balloting, each Election Board member shall be responsible for determining the validity of each Ballot and Absentee Ballot and for counting the Absentee Ballots each vote on each Ballot and Absentee Ballot, and keep a written count of the votes. After an initial count, the count sheets must be compared; if there is any discrepancy between the vote counts, the Election Board must mark those sheets as “VOID” and restart the process.

- a. Counting Spoiled Ballots. All unused and Spoiled Ballots shall be counted by the Election Board. The unused and Spoiled Ballots are to be preserved along with all Polling Site materials and the Ballot boxes. Any Ballot or Absentee Ballot containing a Spoiled Choice, the Spoiled Choice shall not be counted; but those portions of the Ballot or Absentee Ballot that are not spoiled shall be counted.
  - b. Counting Absentee Ballots. Once the Polling Site is closed, one Election Board member, accompanied by Tribal Police, shall retrieve the Absentee Ballot Box from the Tribal Police Department and deliver it to the Polling Site. The Absentee Ballot Box shall be unlocked, and each Election Board member shall inspect each returned Absentee Ballot for a valid certificate in accordance with this Ordinance.
- 20.7 The number of executed Polling Site Ballots per elected position shall not exceed the number of voters who have signed their name or made their mark on the Eligible Voters List.
- a. If the number of executed Polling Site Ballots exceeds the number of voters who have signed their name on the Eligible Voters list, the Election Board must do an immediate recount with all Candidates or Candidate Representatives present.
  - b. If the recount still reflects that the number of executed Polling Site Ballots exceeds the number of voters who have signed their name on the Eligible Voters list, the Election Board must call for a new Election.
- 20.8 Completion of Ballot Count. The ballot count is complete when the choices on all Absentee Ballots and Ballots have been announced, counted, each Election Board members' count totals match, and all Spoiled Ballots are counted to ensure the total number of Absentee Ballots and Ballots collected match the total number printed and issued. The Election Board shall confirm the Ballot Count is complete by majority vote.
- 20.9 Posting of Ballot Count. Immediately upon the completion of the vote count the Election Board shall post the Uncertified Election Results at the Tribal Administrative Offices.

## **Section 21 Request for Recount.**

- 21.1 Any request for a vote recount must be filed in writing with the Election Board within three (3) Days of the posting of the Uncertified Election Results.
- a. Only a Candidate may file a request for a vote recount for a regular or special election for office and only for the office that he or she was a Candidate. The Candidate requesting the vote recount must be present during the entire recount or the request will be determined void.
  - b. The Election Board must complete any recount for any election within three (3) Days of the request.



- 21.2 Referendum, Initiative Recount Request. Any Eligible Voter may request a recount regarding a Referendum vote or an Initiative vote.
- 21.3 The Election Board must complete any recount for a Referendum, Initiative, or Recount within three (3) Days of the request.
- 21.4 Decisions of the Election Board regarding the final results of a vote recount shall be confirmed by majority vote and shall be final.

**Section 22 Election Challenges.**

- 22.1 Any Member shall have five (5) Business Days from the date Uncertified Election Results are posted to file an election challenge with the Election Board (Ref. Const. Art. VII § 5 (h)).
- 22.2 Any challenge that is not brought within the prescribed timeframe and in the prescribed manner is waived.
- 22.3 Any Eligible Voter may file a written challenge to the uncertified election results, to a candidate's eligibility, to the primary election procedure or results, to the polling procedure, or election count, voter list, absentee ballot procedure, or any aspect that occurred from the beginning of the election cycle until the close of the polling location(s).
  - a. The challenge shall clearly state and is limited to one of the following grounds for the challenge:
    - i. Allegations of fraud by a Candidate or Eligible voter.
    - ii. Allegations of Irregularities, other than fraud, of such a nature that:
      - 1. The challenger is able to show that outcome of the election would more likely than not have been different than the reported result; or
      - 2. The challenger is able to show that it is impossible to determine that the outcome of the election with mathematical certainty.
  - b. Upon receipt of a challenge, the Election Board shall date stamp the Notice and initial each page of the challenge.
- 22.4 Notice of Hearing. Within forty-eight (48) hours of receiving the challenge the Election Board shall issue a Notice of Hearing containing the time, date, location, and procedures for a hearing on the challenge. Any hearing shall be within ten (10) Days from the date the challenge was received.
- 22.5 Service of Notice. Service of any Notice of Hearing shall be made upon:
  - a. the challenger, and, if appropriate,

- b. any person or candidate who has an interest relating to the challenge subject of the action and whose absence may impair or impede the person's ability to protect the interest;
- c. any person necessary for the Election Board's ability to decide the matter; and
- d. any person whose due process rights would be violated if not notified and given the opportunity to participate.

## 22.6 Challenge Hearing.

- a. Procedure. An Election Board hearing over a challenge shall allow:
  - i. Opening statements by the challenger, and, when appropriate, any person served;
  - ii. Presentation(s) of evidence and/or witnesses;
  - iii. Cross examination(s);
  - iv. Questions by the Board Members;
  - v. Closing statement(s).
  - vi. After the hearing is concluded, the Election Board may deliberate in closed session.
  - vii. The Election Board may reconvene any challenge hearing at any time upon notice, as required by Section 22.4, and service, as required by 22.5, to comply with the hearing procedures in this subsection.
- b. Waiver by Failure to Appear. If the challenger does not appear at the hearing and has not requested a rescheduling within twenty-four (24) hours before the hearing, the challenge will be waived.
- c. Record. The Election Board shall compile a record of all documents and evidence related to the challenge. The complainant shall be entitled to receive a copy of the record.
- d. Electronic Recording of Challenge Hearing. The Election Board shall record all challenge hearings.

22.7 After receiving an election challenge, the Election Board may investigate the challenge as appropriate. Any such investigation shall remain confidential, however, to the extent that the Election Board relies upon information learned during the investigation in its decision, described below, that information shall be disclosed in the decision.

22.8 Within ten (10) days after an election challenge is filed, the Election Board shall issue a written decision setting out its findings of fact and conclusion regarding the challenge. The decision must identify all evidence presented at the hearing and all evidence the Board relied upon.

22.9 The decision of the Election Board under this Section is final.

### **Section 23 Tie Vote; General and Primary.**

23.1 Primary Tie Vote: If two (2) or more Candidates, who receive the highest number of votes, for the same elective office receive an equal number of votes, the Candidates shall all proceed to the General Election.

23.2 General Election Tie Vote. If two (2) or more Candidates, who receive the highest number of votes, for the same elective office receive an equal number of votes, the Election Board shall:

- a. Announce that a tie has occurred by identifying the tie in the Uncertified Election Results.
- b. After any election challenges, if the tie remains, schedule a run-off election to break the tie.

23.3 Run-Off Election Procedure.

- a. The Election Board shall schedule the Run-Off Election to occur within fifteen (15) Days from the Certified Election Results.
- b. The Election Board shall provide notice of the Run-Off Election to the Eligible Voters within three (3) Business Days of the determination that a Run-Off Election will be necessary.
- c. The Election Board shall conduct the Run-Off Election pursuant to the requirements of this Ordinance with the exception of the notice and posting timing requirements for all other elections.

### **Section 24 Certification and Posting of Official Election Results.**

After posting the Uncertified Election Results, the Certified Election Results, and the conclusion of any challenges or run offs, the Election Board shall certify the results of the Election by unanimous vote, confirmed by signing an Official Notice of Election Results and posting the results at locations within the community designed to give proper notice to all Members.

### **Section 25 Initiatives.**

25.1 Initiatives. Except for ordinances making appropriations or establishing tribal budgets, Tribal Members shall, by Initiative, have the power to propose to the Tribal Council any

ordinance, amendment of an ordinance, or repeal of an ordinance. (Ref. Const. Art. IX § 1.)

25.2 Contents of Initiative Petition. All Initiative Petitions must contain the following:

- a. On each signature page a statement setting forth the purpose of the Initiative Petition. If the purpose of the Initiative Petition is to submit to the Eligible Voters a proposed law or an amendment to an enacted ordinance, the Initiative Petition must clearly identify the proposed law or the provision of the enacted law to be amended.
- b. A statement that the information required to be provided on the Initiative Petition is complete, accurate, and legible.
- c. A certification by the Circulator on at least the first page of the Initiative Petition.
- d. Consecutively numbered pages.
- e. Designated space for one (1) date stamp to be used by the Election Board upon receipt of the Initiative Petition.
- f. Signatures of at least twenty-five percent (25%) of the number of Eligible Voters to be verified by the Election Board. (Ref. Const. Art IX § 1(b)(1))
  - i. The Enrollment Clerk is authorized to complete and certify the number of Eligible Voters necessary to validate an Initiative Petition on the form provided by the Election Board by inserting the number, initialing by the entry and affixing the seal of the Enrollment Office on the first page of any Petition to be submitted to the Election Board.
  - ii. It is the Circulator's responsibility to ensure the requisite number of valid signatures on an Initiative Petition prior to submitting the Initiative Petition to the Election Board for certification.

25.3 Verification of Signatures. Upon receipt of an Initiative Petition, at least two Election Board members shall date stamp and initial each page of the Initiative Petition and provide a copy to the Circulator.

- a. No person, including members of the Tribal Council, Election Board Circulator or Eligible Voter, shall have any right to make any changes, alterations, deletions or additions to the Initiative Petition once it has been received by the Election Board.
- b. All Initiative Petitions shall be considered confidential until such time as the Election Board makes a determination regarding the validity of the Petition.
- c. No person including members of the Tribal Council shall be entitled to a copy of the Initiative Petition or to obtain information contained within the Petition until it

has been determined valid by the Election Board.

- d. Unless otherwise provided by Tribal law, the Election Board shall determine the validity of the form of the Initiative Petition and the signatures on any filed Initiative Petition within seven (7) days of the receipt of the Initiative Petition.
- 25.4 Return of Valid Petition. Upon determination of a valid Initiative Petition, the Election Board shall return the Initiative Petition to the Circulator.
- a. The Circulator shall present the Initiative Petition to the Tribal Council at the next regularly scheduled Tribal Council meeting or request a Special Tribal Council meeting.
  - b. After presentation to the Tribal Council as described above, the Initiative Petition shall be deemed “filed”. (Ref. Const. Art. IX, Sec. 1(b)(2)).
  - c. The Tribal Council Secretary shall provide notice to the Election Board that an Initiative Petition has been filed with the Tribal Council within three (3) days of the filing of the Initiative Petition.
  - d. Within thirty (30) days of the filing of an Initiative Petition, via resolution the Tribal Council may direct the Election Board to call a Special Election on the Initiative Petition.
    - i. The Tribal Council has the option to propose a different ordinance or amendment to an ordinance which is the subject of the Initiative petition.
    - ii. If the Tribal Council submits a different ordinance or an amendment to an ordinance as described above, both proposals shall be submitted to the Eligible Voters at the same Special Election. (Ref. Const. Art. IX, Sec. 1(b)(3)).
  - e. If the Tribal Council fails to call for a Special Election on any filed Initiative Petition within the allotted thirty (30) days, the Election Board shall proceed with the Special Election on the Petition on the 31<sup>st</sup> day after the filing of the Initiative Petition.
- 25.5 Posting of Initiative Petition. Within one (1) Business Day of receipt of a Notice of Filing of a Initiative Petition from the Tribal Council Secretary in the case of an Initiative Petition or as otherwise required by Tribal law, the Election Board shall post certified copies of the Petition within the community, including but not limited to the Tribal Administration Building and within the Election Board office.
- 25.6 Dispute of Signature on Initiative Petition. After a Petition has been posted, the inclusion of an Eligible Voter’s signature on any Initiative Petition may be disputed by an Eligible Voter who desires to contest his or her own signature only. In the event of a dispute:
- a. An Eligible Voter must provide a notarized statement to the Election Board stating

their intent to dispute the authenticity of his or her own signature within seven (7) Business Days from the date of the posting of the Petition.

- b. Only the Eligible Voter whose name is listed on the Initiative Petition may submit a written dispute under this Section.
  - c. The Election Board shall make a written response to a dispute submitted pursuant to this Section 25.6, within forty-eight (48) hours of receipt of said dispute. The response shall indicate whether the Eligible Voter's name will be removed from the Petition, or the reason(s) for the continued inclusion of the Eligible Voter's name.
  - d. The determination of the Election Board to include/remove the Eligible Voter's name from the Petition list is final.
- 25.7 Removal of Voter from Initiative Petition. In the event the removal of an Eligible Voter from the Petition results in a deficiency in meeting the eligibility requirements for certification of the Petition, the Election Board shall invalidate the Petition.
- a. Notice of an invalidated Petition shall be provided to the Tribal Council and the Circulator within one (1) Business Day.
  - b. Further preparation for a Special Election shall cease.
- 25.8 Notice of Special Election. An election on a validated Petition shall follow the same procedure and timeline, as far as practicable, as a general election. Provided however, notice of the election on a Petition must be provided to Eligible Voters no less than thirty (30) days prior to the date of the election on the Petition.
- 25.9 Voter Participation Requirement for Initiative. The vote of a majority of those actually voting shall be conclusive and binding upon the Tribal Council, provided that least fifty-one percent (51%) of the Eligible Voters cast Ballots. (Ref Const. Art. IX § 1(b)(4); Art. VIII § 1(e))

## **Section 26 Recall Petitions.**

- 26.1 A Recall Petition must adhere to the requirements of the Recall/Removal Ordinance, Tribal Council Resolution 2011-055. (Ref. Const. Art. VIII § 1(a)).
- 26.2 Frequency and Timing. Every elected official may only be subject to only one (1) recall petition per term and shall not be subject to recall during the final year of his or her term. (Ref. Const. Art. VIII § 1(a)).
- 26.3 Petition Contents. The Recall Petition must set forth specific facts regarding the acts or omissions of the Council member who is the subject of the Recall that for the basis for the initiative, and must include the following language on the Recall Petition:

- 26.4 Required Signatures. Recall Petitions must be signed by at least fifty-one percent (51%) of the Eligible Voters. (Ref. Const. Art. VIII §1(a))
- 26.5 Signatures shall be verified as described in Section 25.3.
- 26.6 Return and Posting of the Petition. Upon a determination regarding the validity of the Petition, the Election Board shall return the Petition to the Circulator.
- a. Recall Petitions. Upon validation of a Recall Petition, the Election Board shall hold an election pursuant to tribal law.
  - b. Posting, Disputes, Notices, and Voting on Recall Petitions shall be conducted as described in Section 25.

## **Section 27 Constitutional Amendment Petition.**

- 27.1 Constitution Amendment Petition. Tribal Members shall have the power to propose a Constitutional amendment. All Constitution Amendments shall be governed by 25 CFR Part 81. (Ref. Const. Art. XV)

## **Section 28 Referenda**

- 28.1 The Tribal Council shall upon the vote of six (6), or two-thirds (2/3) of the Tribal Council, submit any proposed or previously enacted ordinance to a vote to the Eligible Voters at a referendum election. (Ref. Const. Art IX § 2(a))
- 28.2 The Procedure for a referendum election as set forth by Article IX, Section 2(b)(1) of the Constitution requires:
- a. Referendum Elections to be held not less than thirty (30) days and not more than sixty (60) days from the date the proposed ordinance or amendment to an existing ordinance is referred to the Eligible Voters by a vote of the Tribal Council.
  - b. Each Referendum Election proposal submitted to the Eligible Voters shall contain a statement setting forth the purpose of the Referendum. The Referendum proposal shall:
    - i. Clearly identify the specific enacted or proposed law that the Tribal Council submits for a Referendum election, and
    - ii. The proposed changes to that enacted or proposed law.
  - c. Any Referendum shall be accompanied by a duly signed resolution of the Tribal Council approving the Referendum and directing the Election Board to hold a Referendum election.
- 28.3 Notice to Election Board. The Tribal Council Secretary shall provide a copy of the Tribal

Council Resolution to the Election Board within three (3) Business days of the approval of the Tribal Council Resolution.

- 28.4 Posting of Referendum Resolution. Within one (1) Business Day of receipt of the Tribal Council Resolution approving a Referendum Election from the Tribal Council Secretary the Election Board shall post the Tribal Council Resolution within the Tribal Community, including but not limited to the Tribal Administration Building and within the Election Board office.
- 28.5 Notice of Referendum Election. Notice of a Referendum Election must be provided to Eligible Voters no less than thirty (30) days prior to the date of the Referendum Election.
- 28.6 The vote of a majority of those actually voting shall be conclusive and binding upon the Tribal Council, provided that at least fifty-one percent (51%) of the Eligible Voters cast Ballots in the Referendum Election. (Ref. Const. Art. IX § 2(b)(2)).

**Section 29 Effective Date of Approved Initiative, Referendum; Recall, or Ordinance Amendment.**

- 29.1 Any Initiative, Referendum, Recall, approved pursuant to the provisions of this Ordinance shall take effect no later than ten (10) Days after certification of the Election. (Ref. Const. Art. IX § 3)
- 29.2 No law adopted by the Eligible Voters by Initiative shall be amended or repealed, except by additional Initiative or Referendum vote of the Eligible Voters unless otherwise provided in the Initiative Petition. (Ref. Const. Art. IX § 3)

**Section 30 RESERVED.**

**Section 31 RESERVED**

**Section 32 Interference with Elections.**

- 32.1 The restrictions stated in this Section shall apply to activities on any land held in trust for the Tribe, excluding property leased or used for residential purposes, prior to and including the Election Day for all elections.
- 32.2 No person may:
- a. Post, display, or distribute, any material that directly or indirectly makes reference to an election, a Candidate, or a Ballot question within 100 feet of a polling location. This subsection does not apply to official material that is required by law to be posted, displayed, or distributed in a Polling Site on Election Day;
  - b. Solicit, persuade or endeavor to persuade, intimidate, or threaten a person to vote regarding the person's vote;
  - c. Either directly or indirectly, for the person's own benefit or on behalf of any other



person, receive, agree, or contract for valuable consideration for voting or agreeing to vote, or inducing or attempting to induce another to vote, or for refraining or agreeing to refrain, or inducing or attempting to induce another to refrain, from voting;

- d. Loiter at a Polling Site or within fifty (50) feet of any Polling Site, including any parking areas; or
- e. Directly or indirectly threaten or intimidate an Election Official with the intent to interfere with an Election.
- f. Any other conduct that compromises or otherwise conflicts with the election process.

32.3 It shall be the duty of the Election Board at the Polling Site to obtain such assistance from the Tribal Police as may be required to maintain order in and around the Polling Site during the progress of the election.

### **Section 33. Violations and Enforcement.**

33.1 In addition to any remedies within this Ordinance, any individual who engages in the following offenses shall be guilty of a felony and subject to not more than one (1) year incarceration or a fine of not more than \$5,000:

- a. Knowingly voting more than once in any single election,
- b. Knowingly voting when not being eligible to do so,
- c. Falsification of an Absentee Ballot,
- d. Falsification of any Candidate Petition,
- e. Intentionally interfering with the voting of others or the conduct of Election Officials,
- f. Intentionally disabling or removing from the Polling Site or custody of an Election Official, a voting machine, Ballot box, or voting record, or
- g. Knowingly violating any other section of this Ordinance.

33.2 An individual not subject to the criminal jurisdiction of the Tribe shall be subject to immediate expulsion from the jurisdiction of the Tribe by the Lac Vieux Desert Police Department. A report of the offense shall be produced by the Lac Vieux Desert Police Department to the Tribal Council for permanent exclusion. (Ref. Const. Art. IV § 1(k))

33.3 Parties to a Violation. Whoever violates or participates in any violation of this Ordinance is subject to enforcement under this Ordinance. Enforcement of this Ordinance does not

preclude criminal prosecution.

- 33.4 Authority of Election Board. Any Member may submit written allegations of a violation to the Election Board. The Election Board may investigate any allegations as it deems appropriate.
- 33.5 Enforcement. Within three (3) days after receiving any allegations of a violation, the Election Board may either dismiss the allegations or the Election Board may confirm the violation by written decision and may order civil fines up to \$5,000 or take any action authorized by this Ordinance

#### **Section 34. Jurisdiction.**

- 34.1 Unless otherwise specifically described in this Ordinance or expressly superseded by the Tribal Council, the Tribal Court has original jurisdiction over any original action alleging violations of this Ordinance as well as appellate jurisdiction over any fine levied by the Election Board, in which case the Election Board shall be a respondent to any appeal.
- 34.2 If any section of this Ordinance is invalidated by the Tribal Court, all valid sections that are severable from the invalid sections shall remain in effect. If a section of this Ordinance is invalid in one or more of its applications, that section remains in effect in all valid applications that are severable from the invalid applications.
- 34.3 Nothing in this Ordinance shall constitute a waiver of the Tribe's sovereign immunity from suit or any of its officer absent an express written waiver of sovereign immunity by the Tribe.

#### **Section 35 Miscellaneous**

- 35.1 Administrative Fees. The Election Board shall enact reasonable fees associated with election matters. The Election Board shall publish the current fee list prior to an upcoming election cycle at the Tribal Administrative Offices and at the Election Board Office, and any additional locations the Election Board designates within this Ordinance.
- a. All fees shall be payable to the Election Board and delivered to the Tribal Accounting Office.
  - b. Cash, money order, or certified check are the only acceptable forms of payment. Personal checks will not be accepted.
  - c. Failure to pay the fees required will result in a determination of ineligibility for Candidacy.
- 35.2 Election Procedure Audit. Upon direction from the Tribal Council, the Election Board shall fully cooperate and provide requested documentation to an auditor retained to conduct a review of the Tribe's election procedures.