

LAC VIEUX DESERT BAND OF LAKE SUPERIOR CHIPPEWA INDIANS
ELECTION ORDINANCE

Approved by Tribal Council
Resolution 2012-032
Amended by Resolution T2014-061
June 7, 2016 Amendments - Approved by Tribal Council Motion

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 (hereinafter “Ordinance”) is to facilitate full participation by the Lac Vieux Desert Band of Lake Superior Chippewa Indians (hereinafter “Tribe” or “Band”) Tribal Community (“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. 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” or “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 Tribe’s 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 type of official Ballot issued by the Election Board to an Eligible Voter upon proper request timely filed with the Election Board which allows an Eligible Voter to participate in an election via submission of his or her vote by mail.
 - b. **Ballot:** A document or card prepared by the Election Board in accordance with this Ordinance or an electronic process or other device officially approved by the Election Board as an authorized means for recording the vote of a single voter in an election.
 - c. **Business Day:** Monday through Friday, not including Tribal and federal holidays.
 - d. **Candidate:** Any Eligible Voter whose name appears on the Certified List of Candidates.
 - e. **Cast Ballot:** Any Ballot that is cast by a voter in an election, whether or not it is cast in the prescribed manner or time.
 - f. **Certified List of Candidates:** The list of Candidates certified by the Election Board as eligible to be a Candidate for a scheduled election.
 - g. **Circulator:** An Eligible Voter who presents a Petition to Eligible Voters for their signatures voters to sign a Petition to place a ballot initiative, referendum, recall, or candidate on the ballot.

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

Page 2

- h. **Constitution:** The Constitution of the Lac Vieux Desert Band of Lake Superior Chippewa Indians adopted by the Lac Vieux Desert Band of Lake Superior Chippewa Indians membership on May 14, 1992, and amended by the membership on May 6, 1997.
- i. **Constitution Amendment:** A manner by which Eligible Voters or Tribal Council may propose to the Eligible Voters, a change to a Constitutional provision pursuant to Article XV of the Constitution
- j. **Day or Days:** Calendar days, except as expressly defined as a Business Day.
- k. **Elected Official:** Any Lac Vieux Desert Band of Lake Superior Chippewa Indians governmental position required by the Constitution to be filled by election.
- l. **Election Day:** Election Day is either the day that polls open for voting on candidates for the Lac Vieux Desert Band of Lake Superior Chippewa Indians elective office, or for Initiatives or Referenda. The date for the elections shall be set pursuant to Article VII, Section 1 of the Constitution.
- 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 Lac Vieux Desert Band of Lake Superior Chippewa Indians 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:** An enrolled member of the Lac Vieux Desert Band of Lake Superior Chippewa Indians who is eighteen (18) years of age or older on the date of the election in question. Article VII, Section 3(a) of the Constitution.
- q. **Executive Council Members or Executive Council:** shall mean the Tribal Council Chairperson, Vice-Chairperson, Treasurer, and Secretary
- r. **Fifty-(50) Mile Radius of the Reservation:** A determination required by Article VII, Section 4 of the Constitution which shall be determined in accordance with Addendum A of this Ordinance.
- s. **General Council Members or General Tribal Council:** shall mean the five (5) Tribal Council Members other than the Executive Council Members.

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

Page 3

- t. **Initiative:** A manner by which a Member may propose to the Eligible Voters adoption of an ordinance, amendment of an existing ordinance, or repealing an existing ordinance pursuant to Article IX, Section 1 of the Constitution.
- u. **Invalid Ballot:** A Cast Ballot that is not an official Ballot, or an Absentee Ballot that was not cast within the prescribed time.
- v. **Member:** An enrolled member of the Lac Vieux Desert Band of Lake Superior Chippewa Indians.
- w. **Nominee:** A prospective Candidate nominated by Eligible Voters of the Lac Vieux Desert Band of Lake Superior Chippewa Indians in accordance with Section 9 of this Ordinance.
- x. **Petition:** A document issued for circulation to Eligible Voters, including Tribal Council members, seeking signatures to compel an action pursuant to Article VII, VIII, IX, and XV of the Constitution.
- y. **Polling Site:** A location within the Tribe's reservation designated by the Election Board, where Eligible Voters cast Ballots in an election.
- z. **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
- aa. **Recall:** A process whereby a Lac Vieux Desert Band of Lake Superior Chippewa Indians Elected Official may be recalled by the Eligible Voters pursuant to Article VIII, Section 1 of the Constitution and the Recall/Removal Ordinance enacted by the Tribal Council pursuant to Tribal Council Resolution 2011-055.
- bb. **Referendum:** A manner by which the Tribal Council may propose to the Eligible Voters, at a referendum election, or in conjunction with a regular or special election, adoption of an ordinance, amendment of an existing ordinance, or repealing an existing ordinance pursuant to Article IX, Section 2 of the Constitution.
- cc. **Candidate Representative or Representative:** The meaning of the term Representative as used in Article VII, Section 5(g) of the Constitution means a Member who is eighteen (18) years or older. Defined by Tribal Council Motion on February 14, 2012.
- dd. **Spoiled Ballot:** A Spoiled Ballot shall not be counted towards the count of any Candidate, but shall be counted toward the number of overall Ballots in the election. A Spoiled Ballot is one of the following:
 - i. Any Ballot issued to a voter at a poll on Election Day that is not a Cast Ballot and is returned by the same voter at the poll for replacement by another Ballot;
 - ii. A Ballot that was not cast in the prescribed manner;

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

Page 4

- iii. A Cast Ballot on which the intent of the voter cannot be determined;
 - iv. An Absentee Ballot cast within the prescribed time but not in the prescribed manner.
 - v. Absentee Ballots not accompanied by a properly executed certification.
- ee. Spoiled Choice: A Spoiled Choice shall refer to any section within a Ballot, Absentee or otherwise, that is either left blank, changes a selection that cannot be distinguished by the Election Board, or selects more than one option, within that section of the Ballot. If the Election Board is unable to discern the intent of the Eligible Voter, only that portion of the Ballot that is spoiled shall not be counted; those portions where the Ballot is not spoiled shall be counted. If an Eligible Voter makes a Spoiled Choice, and the Ballot is not an Absentee Ballot, that Eligible Voter shall be entitled to receive a new Ballot provided that the Ballot has not been placed in the Ballot box. If a new Ballot is issued, the Ballot with the Spoiled Choice shall be counted as a Spoiled Ballot.
- ff. Tribe or Band: Shall mean the Lac Vieux Desert Band of Lake Superior Chippewa Indians.
- gg. Uncertified List of Candidates. An unofficial list of Candidates who have been determined eligible to run for elected office prior to the expiration of the timeframes provided by this Ordinance within which to file a dispute.
- 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 after which the designated period of time begins to run is not included.
 - b. The last day of the period is included, unless it is a Saturday, Sunday, legal holiday, or holiday on which the Tribal Administrative 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.

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

Page 5

Section 2 Election Board.

- 2.1 Establishment of Election Board. In accordance with Article VII, Section 5(a) of the Constitution, the Tribal Council shall establish an Election Board composed of three (3) Eligible Voters.
- 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 conduct and certify the election vote, and election results of all elections as described in Article VII, Section 5(a) of the Constitution, in accordance with the requirements of the Constitution, and this Ordinance, and such rules and procedures as the Election Board may establish.
- 2.3 The Election Board shall verify all Initiatives and Petitions permitted under this Ordinance and Article IX, Section 1(b) of the Constitution, other than those related to Referendums, present the same to the Tribal Council, and conduct all Initiative and Referendum Elections.
- 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 Band elections as prescribed by Article VII, Section 5(a) of the Constitution.
 - b. Rules and Procedure of Election Board. Pursuant to Article VII, Section 5(f) of the Constitution, notwithstanding any Tribal Council directives indicating otherwise or amending previously adopted rules and procedures, the Election Board shall adopt rules and procedures as deemed necessary to carry out their functions. Any such rules and procedures shall be in compliance with this Ordinance and the Constitution. However, 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. To the extent not inconsistent with any ethics code applicable to the Election Board which may be enacted by the Tribal Council, no member of the Election Board shall:

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

- a. Run for Office. Election Board members shall not be eligible to run for any Tribal government office during the term they are a member of the Election Board in accordance with Article VII, Section 5(c) of the Constitution;
- b. Violate any ethics code, policy or code of conduct applicable to the Election Board;
- c. Seek to influence any Tribal employee, representative, or official government decision or action on any basis other than the merits of the matter;
- 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 their duties as an Election Board member, including but not limited to (1) matters discussed during a closed meeting of the Election Board; or (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; or
- 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 to be 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 aforementioned public posting 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

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

Page 7

the Constitution and this Ordinance.

- d. The Tribal Council shall appoint three (3) individuals, from those that submitted letters of interests, by secret Ballot. The three (3) with the highest vote count shall be selected as members of the Election Board.
- e. The newly appointed Election Board members shall be notified immediately following appointment of their appointment via a letter from the Tribal Council Chairperson.

2.7 Term. Members of the Election Board shall serve a term of three (3) years pursuant to Article VII, Section 5(d) of the Constitution, commencing the first of the month following appointment and notification by the Tribal Council.

2.8 Confidentiality. All Election Board members shall sign a confidentiality statement which 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, and (b) be an enrolled Member in accordance with Article VII, Section 5(a) of the Constitution.

2.10 Voluntary Resignation.

- a. An Election Board member may voluntarily resign his or her position on the Election Board via a written letter of resignation delivered to the Election Board Chair or Vice-Chair.
- b. Such a resignation shall be effective upon delivery unless stated otherwise in the letter of resignation.
- c. Upon receipt of the letter of resignation the Election Board Chair or Vice-Chair shall forward the letter to the Tribal Council, with a request that the Tribal Council fill the vacated position.
- d. The Tribal Council shall appoint an individual to fill the vacated position. The individual appointed following a vacancy shall fill the vacancy only for the remainder of the term of the person they are replacing.
- e. Procedure to Fill Vacancy. The procedure to fill a vacancy following the voluntary resignation of an Election Board member shall be in accordance with Section 2.5 of this Ordinance, Appointment of Election Board, unless said vacancy occurs within sixty (60) Days of any scheduled election. In the case of a vacancy which occurs within sixty (60) Days of an election, the Tribal Council shall:
 - i. Direct a public posting be made soliciting interest from Tribal Members to fill the vacated Election Board position. The public posting shall request that those

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

Page 8

individuals interested in a position on the Election Board submit a letter of interest to a designated member of the Tribal Council.

- ii. The public posting shall be for ten (10) Business Days.
- iii. Immediately upon the closing of the public posting period, the Tribal Council shall call a Special Meeting to 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.
- iv. The Tribal Council shall appoint as many individuals as required to fill the vacated positions, from those that submitted letters of interests, by secret Ballot. The individuals with the highest vote count shall be selected as members of the Election Board.
- v. The newly appointed Election Board members shall be notified immediately following appointment of their appointment via a letter from the Tribal Council Chairperson.

2.11 Removal for Cause.

- a. The Tribal Council may by a majority vote of the voting members of the Council may remove from office any Election Board member 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 from physical or mental disability, to the extent that he or she is incapable of exercising judgment about or attending to the business of the Election Board;
 - iii. Conviction of a felony, or any crime involving dishonesty or moral turpitude under federal, state or tribal law while holding office.
 - iv. Or engaging in any other prohibited activity included in Section 2.4 of this Ordinance, which is not an Allegation of Impropriety under Section 2.12(b) of this Ordinance.
- b. An action to remove an Election Board member pursuant to an affirmative vote of a majority of the voting members of the Tribal Council shall be documented in the form of a Tribal Council Resolution and set forth the specific facts and circumstances supporting the vote for removal.
 - i. The Tribal Council Resolution shall contain exhibits and supporting documentation used by the Tribal Council to arrive at the decision to call for a vote for removal.

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

- ii. A copy of the Tribal Council Resolution plus all supporting documentation must be personally served upon the Election Board member who is the subject of the Tribal Council Resolution within three (3) Days from the date of approval.
 - iii. All removals made pursuant to this Section shall become effective after hearing before the Tribal Council in accordance with Section 2.11(c) below.
- c. Hearing Before Tribal Council Following a Vote for Removal
- i. Upon the approval of a Council Resolution removing an Election Board member, the Tribal Council shall establish a date and time for a hearing on the matter provided that all parties are given at least fourteen (14) Days advanced notice of the date chosen by the Tribal Council.
 - ii. At the hearing, the Election Board member who is the subject of the Resolution for removal shall be given the opportunity to respond to the evidence before the Tribal Council, offer and confront witnesses (if any), and present any additional relevant evidence to the Tribal Council.
 - iii. Within fourteen (14) Days after the conclusion of the hearing and upon determining whether the facts and circumstances providing the basis of the vote for removal fall within at least one of the grounds for removal enumerated in this Ordinance, the Tribal Council shall confirm or rescind the Removal Resolution with a subsequent Council Resolution.
- d. Procedure to Fill Vacancy. The Procedure to fill a vacancy following the Removal of an Election Board member by the Tribal Council shall be in accordance with Section 2.5, Appointment of Election Board, of this Ordinance, unless said vacancy occurs within sixty (60) Days of any scheduled election. In the case of a vacancy which occurs within sixty (60) Days of an election, the Tribal Council shall follow the procedure defined in Section 2.10 (e) above.
- e. The individual appointed following a removal of any Election Board member shall fill the vacancy only for the remainder of the term of the person they are replacing.

2.12 Allegations of Impropriety by an Election Board Member.

- a. Pursuant to Article VII, Section 5(e) of the Constitution, the Tribal Judiciary, which for purposes of this Ordinance shall mean the Tribal Court in the first instance and then the Court of Appeals in relation to any appeal from the decision of the Tribal Court, shall have jurisdiction over allegations of impropriety by any Election Board member.
- b. Impropriety shall be defined, under this Ordinance, to include, but is not limited to, a breach of confidentiality required under Section 2.8 of this Ordinance, campaigning for anyone running for elected office, carrying Petitions, jeopardizing the integrity of the election

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

Page 10

process by accepting money or donating money to any Candidate, or affecting the Ballots during the election by tampering or falsifying a Ballot, all of which are prohibited by this Ordinance.

- c. **Burden of Proof.** The Tribal Judiciary may remove an Election Board member upon establishment beyond a reasonable doubt that improprieties occurred.
- d. **Court Rules.** The Tribal Judiciary shall create expedited procedures to dispose of any allegations of impropriety resulting from appeals filed in accordance with Article VII, Section 5(e) of the Constitution and as provided for in Sections 5, 12, 27, and 31 of this Ordinance in order to ensure the efficient processing of such appeals that are designed to least disrupt the current Election process and the scheduled Election.

2.13 Removal Procedure – Allegations of Impropriety.

a. Petition by Tribal Council

- i. The Tribal Council may by an affirmative vote of the majority of the voting members of the Council refer to the Tribal Judiciary for removal from office any member of the Election Board for Impropriety as defined above in Section 2.12(b)
 - ii. An action to remove an Election Board member from office and refer to matter to the Tribal Judiciary pursuant to an affirmative vote of the majority of the voting members of the Tribal Council shall be filed in the form of a Petition to remove Elected Official setting forth the specific facts and circumstances supporting the vote for removal.
 - iv. The Petition shall contain all exhibits and supporting documentation used by the Tribal Council to arrive at the decision to call for a vote for removal.
 - v. A copy of the Petition plus all supporting documentation must be personally served upon the Election Board member who is the subject of the Petition within three (3) Days from the date of filing.
- b. An Eligible Voter may also file a complaint with the Tribal Judiciary for removal from office of any member of the Election Board for Impropriety as defined above in Section 2.12(b).
- i. The Complaint shall conform to all applicable court rules promulgated by the Tribal Judiciary.

c. Jurisdiction of the Tribal Court and Hearing.

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

Page 11

- i. Pursuant to Article VII, Section 5(e) of the Constitution, the Tribal Judiciary has jurisdiction to review Petitions filed to remove an Election Board member from office as described in this Section 2.13 initiated by the Tribal Council or an Eligible Voter pursuant to this Ordinance.
- ii. Upon filing of a Petition for removal of an Election Board member the Tribal Judiciary shall establish a date and time for a hearing on the matter, provided that all parties are given at least thirty (30) Days advanced notice of the date chosen by the Tribal Court.
- iii. At the hearing, the Election Board member who is the subject of the Petition for removal shall be given the opportunity to respond to the evidence before the Tribal Court, offer and confront witnesses (if any), and present any additional relevant evidence to the Tribal Court. The Tribal Council member shall be given adequate time to present his case.
- iv. The Election Board member who is the subject of the removal Petition may be represented by legal counsel at his or her own expense.
- v. Within thirty (30) Days after the conclusion of the hearing and upon determining whether the facts and circumstances providing the basis of the vote for removal fall within one of the grounds for removal enumerated in Section 2.12(b), the Court shall enter an order providing for the immediate removal of the Election Board member from office or an order dismissing the matter.
- vi. Either party has the right to appeal the decision of the Tribal Court to the Tribal Court of Appeals in accordance with the Lac Vieux Desert Rules of Appellate Procedure.

2.14 Funding the Election Board. The Tribal Council shall provide funding, as determined by a yearly budget, to the Election Board in an amount adequate for the Election Board to carry out its duties and responsibilities under the Tribal Constitution and this Ordinance.

- a. The Election Board shall provide the Tribal Council with an itemized budget within a reasonable amount of time after appointment and upon request during the tribal operations budget process.
- b. Said itemized budget should include the compensation of the Election Board.

2.15 Contractors and Consultants. The Election Board may, subject to budget limitations 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, legal counsel, and other persons as the Election Board deems appropriate.

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

Page 12

- 2.16 Election Office. During the election process, the Election Board shall ensure that to the greatest extent possible, 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. Pursuant to Article VII, Section 3(a) of the Constitution any enrolled Member who is eighteen (18) years of age or older on the date of an election shall be eligible to vote.
- 3.2 Tribal Council Members. Each member of the Tribal Council is also an Eligible Voter, and therefore entitled to vote in any election that occurs during his or her term.
- 3.3 Election Board Members. Election Board members retain the right and privilege to vote in any Tribal Election they are overseeing.

Section 4 Eligible Voter List.

- 4.1 Pursuant to Article VII, Section 3(a) of the Constitution any enrolled Member who is eighteen (18) years of age or older on the date of the scheduled election shall be eligible to vote.
- 4.2 The Election Board shall request, in writing, from the Enrollment Clerk, or his or her delegate, a list of Tribal members who will be eighteen (18) years or older as of the date of the upcoming election (primary or general) within sixty (60) days prior to the date of the scheduled election.
- a. Upon an official request by the Election Board, the Enrollment Clerk shall provide from official Tribal records any information needed to determine which Members are Eligible Voters, and any information needed for distributing the Election Notice, including the names, addresses, and ages of Tribal members.
 - b. Pursuant to this Ordinance such an official request shall be deemed to have met the authorizing resolution requirement to release such information to the Election Board found in Section 10.10 (d) of the Enrollment Ordinance.
- 4.3 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 prior to any Election, special, general and primary, the Election Board shall send via U.S. Mail to all Eligible Voters a notice of the upcoming election.

- a. The notice shall include the date, time, and Polling Site the election, a list of the candidates and the positions for which they are running, and any Referendums or Initiatives that will be on the Ballot.
- b. Included within this notice must be information regarding the procedures outlined by the Election Board for Absentee Ballots, specifically the qualification to receive an Absentee Ballot, the procedure to obtain such a Ballot, whom to contact for the Absentee Ballot and the Election Event Timetable.

5.2 The Election Board shall post notice of any scheduled election, special, primary and General, 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 Pursuant to Article VII, Section 2(a) of the Constitution members of the Tribal Council shall be elected during such month and day as set by the Tribal Council. The Tribal Council shall set the date for the General Election as near as possible to coincide with the expiration of the term of the current Tribal Council.
- 6.2 Pursuant to Article VII, Section 2(b); Art. VII, Section 5(h)-(i); Art. VIII, Sections 1(c)-(d) and (2); Art. IX, Sections (1)(b)(2) and (2)(b)(1), Special Elections shall be called by the Election Board to remove, recall and fill vacancies of Elected Officials and to submit Initiatives and Referenda to Eligible Voters.
- 6.3 Newly elected members of the Tribal Council shall be sworn into office by the then serving Tribal Council at the next regularly scheduled Tribal Council meeting following the date on which the Election Board certifies the results of the regular or special election at which such members were elected in accordance with Article VII, Section 2(c) of the Constitution.

Section 7 Qualification and Disqualification for Candidacy.

- 7.1 Qualification for Executive Officer Positions: to be eligible to run for the position of Chairperson, Vice-Chairperson, Treasurer, or Secretary, a person must be:
 - a. a Member who has resided within a Fifty (50) Mile Radius of the Reservation for at least six (6) months prior to the election pursuant to Article VII, Section 4(a) of the Constitution, and
 - b. at least twenty-five (25) years of age as of the date of the scheduled Election for the position of Chairperson, Vice-Chairperson, Treasurer, or Secretary pursuant to Article VII, Section 4(a) of the Constitution.
- 7.2 Qualifications for candidacy for General Tribal Council positions, a person must be:

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

- a. a Member who has resided within Fifty (50) Mile Radius of the Reservation for at least six (6) months prior to the election pursuant to Article VII, Section 4(a) of the Constitution, and
- b. must be at least eighteen (18) years of age as of the date of the scheduled Election for the other Tribal Council positions pursuant to Article VII, Section 4(a) of the Constitution.

7.3 Disqualification for Candidacy. No person shall be eligible to be a Candidate to the Tribal Council, including Executive positions, who has been convicted of any felony under federal, state, or tribal law, unless said felony conviction is more than ten (10) years old at the time of the of determination of eligibility for candidacy pursuant to Article VII, Section 4(b) of the Constitution.

7.4 Pursuant to Article VII, Section 4 of the Constitution, Candidates for Tribal Council, both Executive Members and General Members, must live within the Fifty (50)-Mile Radius of the Reservation.

- a. The Tribal Council shall upon the completion of a land survey, review and discussion of said survey, formally determine the fifty (50)-mile radius through a Tribal Council Resolution.
- b. Upon additional land obtaining Trust status the Tribal Council will direct that a land survey be conducted to determine the fifty (50) mile radius around the newly acquired Trust parcel.
- c. The land survey directed to be completed by this Section 8.4 shall be completed within six (6) months of the land obtaining Trust status.

Section 8 Rehabilitation for Candidacy.

8.1 Pursuant to Article VII, Section 4(b) of the Constitution, the Tribal Judiciary, as previously defined in Section 2.12 (a), may certify that a person excluded from running for office pursuant to Article VII, Section 4(b) of the Constitution and Section 8.2 of this Ordinance, is rehabilitated for candidacy in accordance with such court rules established by the Tribal Judiciary.

8.2 A Candidate must receive a judicial determination regarding rehabilitation prior to the Nomination Petition filing deadline. A finding of rehabilitation after the Nomination Petition deadline will not be accepted.

Section 9 Nominations for Candidates.

9.1 Notice of Nomination Petition Availability. The Election Board shall post a Notice of Nomination Petition Availability at the Tribal Administrative Offices and any other locations that are commonly used to post notices to the community no later than ninety (90) Days before any

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

scheduled General Election and no later than ten (10) days before the filing deadline for Nomination Petitions in Section 9.3.

9.2 **Notice of Candidacy.** A potential Candidate, or a Circulator who wishes to nominate a Candidate, for any Elected Office in any General Election may become a Candidate by circulating and filing a Nomination Petition by the deadline prescribed in Section 9.3.

a. **Nominations for Executive Council Offices.** Nominations for Chairperson, Vice-Chairperson, Treasurer, and Secretary must be specifically stated as such on the Nomination Petition.

b. The Circulator may be the same Eligible Voter as the Candidate.

9.3 **Filing Deadline.** All Nomination Petitions must be filed with the Election Board at least thirty (30) Days prior to the date of any scheduled Election.

9.4 **Nomination Petition Requirements.** Nomination Petitions must:

- a. Contain contact information of the Candidate and Circulator (if applicable);
- b. The Elected Office for which the Candidate intends to run;
- c. Proof of Tribal Membership;
- d. Be accompanied by a notarized Background Authorization form and proof of residency in a form acceptable to the Election Board;
- e. Contain the notarized signature of the Candidate and one Eligible Voter witness;
- f. Contain a notarized statement that the Candidate will abide by the Rules of Candidacy including but not limited to those prescribed by Section 22 of the Election Ordinance; and
- g. Be accompanied by the requisite fee for Candidacy as determined by the Election Board pursuant to Section 43 of this Ordinance.

9.5 The Election Board shall document the receipt and filing of each Nomination Petition by date and time stamp as well as initialing the cover page of each Nomination Petition.

9.6 A copy of the filed Nomination Petition shall be provided to the Candidate or Circulator

9.7 No Nomination Petition may be filed without meeting the requirements of Section 9.4 including the payment of the requisite fee pursuant to Section 43 of this Ordinance.

Section 10 [RESERVED]

Section 11 Determination of Eligibility for Candidacy.

11.1 Within five (5) Business Days of the filing of a Nomination Petition by a Candidate, the Election Board shall make a determination of the Candidate's eligibility to run for Elected Office pursuant to Article VII, Section 4 of the Constitution. Said determination shall include:

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

Page 16

- a. Verification that the witnesses signature on the Nomination Petition is an Eligible Voter;
 - b. A residency determination; and
 - c. A background investigation that covers the ten (10) years prior to the scheduled election.
 - i. The background investigation shall be a national search or a search of each of the states in which the Nominee has resided in the last ten (10) years.
 - ii. The Nominee shall be deemed ineligible to run for Tribal Council position if the Nominee's background investigation reveals a felony conviction within the last ten (10) years and he or she has not obtained a judicial rehabilitation pursuant to Section 8 of the this Ordinance.
 - iii. The Election Board shall keep all background investigations confidential.
- 11.2 The Election Board shall notify a Nominee who filed a timely Nomination Petition that fails to meet the set standards for eligibility, in writing outlining the grounds for ineligibility and the right of the Nominee to dispute the determination of ineligibility along with forms necessary to file such a dispute. Notification shall be made by certified mail, return receipt requested to the Nominee's last known address or any other means deemed suitable by the Election Board and acknowledged by the ineligible Nominee.
- 11.3 Dispute of Ineligibility Determination. A Nominee who has received notification from the Election Board that he or she has failed to meet the eligibility requirements to run for Elected Office may dispute the determination of the Election Board in writing by filing Notice of Intent to Dispute on the form provided by the Election Board.
- a. A dispute regarding a Nominee's eligibility may be submitted to the Election Board up until 3:30 p.m. CST on the third (3rd) Business Day following the date the Uncertified List of Candidates is posted.
 - b. Only Nominees and Eligible Voters may dispute an eligibility determination regarding a Nominee.
 - c. Any dispute submitted under this Section must be made in writing and must be in the form of the Notice of Intent to Dispute provided by the Election Board.
 - d. If the Election Board receives a written dispute regarding the determination of a Nominee's eligibility, the Election Board shall respond in writing to the Nominee or Eligible Voter filing the dispute within three (3) Days of receipt of the challenge.
 - i. The Election Board will hear and dispose of any disputes regarding the Nominee eligibility within two (2) Days from receipt of the written notice of the Nominee's intent

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

Page 17

to dispute the determination of the Election Board.

- ii. The decision of the Election Board must be communicated to the Nominee orally and in writing within twenty-four (24) hours of the date of the decision. Said decision shall include:
 - 1. A statement regarding the reasons the challenge was granted or denied; and
 - 2. A statement that the Nominee may appeal the determination of the Election Board to the Tribal Judiciary if pursuant to Article VII, Section 5(e) of the Constitution the Candidate alleges impropriety of the Election Board.
 - e. The determination of the Election Board is final.
- 11.4 Nothing in this Section 11 precludes an Eligible Voter from filing a complaint with the Tribal Judiciary based upon allegations of impropriety in accordance with Article VII, Section 5(e) of the Constitution and Sections 2.12 of this Ordinance.

Section 12 Posting of Uncertified List of Candidates.

- 12.1 Following the Election Board’s determination of a Nominee’s eligibility pursuant to Section 11.1 of this Ordinance, the Election Board shall have the eligible Nominee’s names placed on an Uncertified List of Candidates and immediately post said list at the Tribal Administrative Offices, Election Board Office and the Election Board website, if available.
- 12.2 The posted Uncertified List of Candidates shall not be reflective of any disputes as provided for in Section 11 but rather is an uncertified list based upon initial Candidate eligibility determinations.

Section 13 Compilation and Publication of Final Ballot.

- 13.1 Within five (5) Days following the conclusion of any disputes permitted under Section 11.3 or 11.4 of this Ordinance, the Election Board shall prepare, or cause to be prepared, establish, certify, and post a Certified List of Candidates and create a final Ballot listing each Tribal Council position and the name of each Candidate. Unless otherwise addressed through the use of electronic Ballots:
- a. preparation and printing of Ballots shall include the choosing of a paper of sufficient weight and color so as to not allow for duplication of the official Ballot;
 - b. a separate color for each election shall be chosen on which the sample, absentee, primary and general election Ballot shall be prepared.
 - c. Initiative and referendum ballots shall also be different colors.
- 13.2 The Election Board shall create and post Ballots clearly marked as “SAMPLE BALLOTS” in order to acquaint Eligible Voters with the ballot and voting procedure as soon as reasonably possible following the posting of the Certified List of Candidates.

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

- 13.3 The Election Board shall procure and supply ballots sufficient to ensure each Eligible Voter with a Ballot on the date of election. Additionally, the Election Board shall ensure that there are sufficient ballots for those that make an error on their original Ballot, or appear at the Polling Site on Election Day to vote despite requesting an Absentee Ballot.
- 13.4 The order in which names appear on the Ballot shall be determined by lot. The Election Board Chair shall draw lots at an open meeting. Notice of the open meeting shall be publically 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 particular 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 a particular position, are drawn.
- 13.5 Any Nominee may voluntarily remove his or her name from consideration for inclusion on the Ballot by submitting a written request of removal to the Election Board within five (5) days of the posting of the Uncertified List of Candidates. Upon receiving a timely written request the Election Board shall remove the Nominee's name from the Ballot.
- 13.6 In the event any Candidate appearing on the Ballot dies or withdraws his or her name from consideration for office, prior to the date of election, the Election Board shall post a notice of this fact at the Tribal Administration Building and within the Election Board Office.
- a. Unless otherwise provide by Tribal law, votes cast for a deceased Candidate or one that has withdrawn his or her name for consideration shall not be considered in the tally, and such votes shall be considered a Spoiled Choice as provided in Section 30.3(e).

Section 14 Conduct by Candidates.

- 14.1 Candidates running for office shall conduct themselves in the highest ethical standards and shall avoid tactics referred to as mud-slinging during the course of the campaign.
- 14.2 Candidates for election shall refrain from using their current position with the Tribe to influence or coerce others to vote in his or her favor.
- 14.3 On Election Day, Candidates are prohibited from campaigning for elected office within a one hundred and fifty (150) foot radius from the Polling Site.

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

Page 19

- 14.4 Consistent with the Tribe's personnel policies, a Candidate shall refrain from working on his or her campaign during his or her scheduled working hours with the Tribal Government or Tribal businesses.

Section 15 Voting and Other Violations.

- 15.1 An 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. Intentionally interfering with the voting of others or the conduct of Election Officials,
 - d. Intentionally disabling or removing from the Polling Site or custody of an Election Official, a voting machine, Ballot box, or voting record, or
 - e. Knowingly violating any other section of this Ordinance.
- 15.2 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 and provided to the Tribal Council for consideration of the exercise its authority pursuant to Article IV, Section 1(k) of the Constitution “[t]o exclude from the lands of the Band persons...not legally entitled to be present thereon”.

Section 16 Absentee Voters and Absentee Voting Procedure.

- 16.1 Eligibility. Eligible Voters who are temporarily absent or otherwise unable, for any reason, to cast his or her Ballot at the designated Polling Site shall be entitled to vote by Absentee Ballot.
- 16.2 Notice to Eligible Voters of Absentee Voting Availability. The procedure for absentee voting shall be outlined and Absentee Ballot application included within the Notice of Election required pursuant to Section 5 of this Ordinance.
- 16.3 Absentee Ballot Application. An Eligible Voter shall request an Absentee Ballot by using the application provided by the Election Board. The Election Board shall make the Absentee Ballot application available by phone, in person or mail to Eligible Voters.
- a. The Absentee Ballot Application may be amended by the Election Board as needed, but must be finalized each election cycle sixty (60) days prior to the first day specified for Eligible Voters to request an Absentee Ballot application.

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

Page 20

- b. Applications for an Absentee Ballot must be received by the Election Board by 3:30 p.m. CST five (5) Business Days prior to the scheduled election. 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 requested an Absentee Ballot via the approved application shall be permitted to receive an Absentee Ballot and vote by Absentee Ballot.
- d. Absentee Ballots may be provided by the Election Board to the Eligible Voter who makes proper application by mail or in person.

Section 17 Absentee Ballot Packet.

- 17.1 After receiving a timely application, the Election Board shall immediately determine whether the person is an Eligible Voter and whether he or she has properly submitted an Absentee Ballot application.
 - a. If the individual is an Eligible Voter and the application was submitted properly, the Election Board shall give or mail an Absentee Ballot packet to the Eligible Voter.
 - b. The Election Board shall mail by certified mail or otherwise distribute to all Eligible Voters requesting an Absentee Ballot, an Absentee Ballot packet within one (1) Business Day of approving an Absentee Ballot application, provided however that if Ballots have not yet been prepared, one (1) Business Day from the date of preparation of the Absentee Ballot.
 - c. The Election Board shall maintain an official list of Eligible Voters who have been provided Absentee Ballot packets.

- 17.2 The Election Board shall compile Absentee Ballot packets for distribution to those approved to receive an Absentee Ballot, which shall contain the following items unless otherwise replaced by electronic ballots,
 - a. An official Absentee Ballot that is clearly marked "OFFICIAL ABSENTEE BALLOT" and embossed with the official Election Board seal.
 - b. An inner envelope marked "ABSENTEE BALLOT ENVELOPE."
 - c. An inner envelope marked "CERTIFICATION ENVELOPE".
 - d. An outer envelope addressed to the Election Board.
 - e. An instruction page for completing the Absentee Ballot.
 - f. Certificate in the form 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

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

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.

Signed: _____
Signature of Voter

Subscribed and certified before me this _____ day of _____, 20____; And I hereby certify that I am of adult age; that the voter exhibited the ballot to me unmarked; that his/her vote, marked such ballot and enclosed and sealed the same in the envelope marked "ABSENTEE BALLOT ENVELOPE."

STATE of _____)
COUNTY of _____) ss:

The foregoing instrument was acknowledged before me this ____ day of _____, 20____ by

Notary Public

17.3 The Absentee Voter shall be provided with written instruction regarding the procedure for completing and returning his or her Absentee Ballot which shall substantially comply with the following:

- a. Clearly instruct the absentee Eligible Voter as to the number of Council positions up for election and how many choices he or she may mark on the Absentee Ballot.
- b. In the presence of a notary, mark the Absentee Ballot.
- c. In the presence of the notary, fold the Absentee Ballot so as to conceal this marking, and place the Absentee Ballot in the envelope marked "Absentee Ballot Envelope" and then seal the envelope.
- d. Complete and execute the Certificate in the presence of the notary and place the certificate in the envelope marked "Certification Envelope" and then seal the envelope.
- e. Place both the sealed "Absentee Ballot Envelope" and sealed "Certificate Envelope" in the outer envelope which is pre-addressed to the Election Board.
- f. Mail or hand-deliver the Absentee Ballot providing enough time for the ballot to be

received by the Election Board by the deadline.

- g. If mailed, the returned Absentee Ballots must be received by the designated United States Post Office Box, as indicated on the Absentee Ballot, by the time of closing of the Post Office on the day before the election. Absentee Ballot received after this deadline or in a manner other than prescribed herein shall be considered an Invalid Ballot.

Section 18. Absentee Ballot Procedure.

18.1 Receipt of Absentee Ballots. A properly completed Absentee Ballot must be delivered via US Mail to the Election Board at the address provided by the Election Board on the envelope in the Absentee Ballot packet.

18.2 Replacement Absentee Ballots. Prior to the deadline for Returned Absentee Ballots specified in Section 16.3(b), the Election Board shall issue another Absentee Ballot to a qualified Absentee Voter who has lost, spoiled, or mutilated his or her Absentee Ballot.

- a. An Absentee Ballot that is alleged to have been spoiled or mutilated shall be turned over to the Election Board prior to being reissued a replacement.
- b. An Absentee Voter who has lost their previously issued Absentee Ballot shall be required to sign an affidavit indicating that he or she has lost the previously issued Absentee Ballot prior to being issued a replacement Ballot of any kind.

18.3 Processing of Absentee Ballots.

- a. The Election Board shall be responsible for picking up all the Absentee Ballots returned via mail at the designated United States Post Office following the close of Tribal governmental offices at 3:30pm CST, on the day before the scheduled election.
 - i. At least two members of the Election Board shall be accompanied by at least one (1) Tribal Police Officer while retrieving the Absentee Ballots.
 - ii. The retrieved Absentee Ballots shall immediately be transported to the Tribal Police Department and deposited, following the completion of the activities described below, in the Absentee Ballot Box and resealed.
 - iii. Prior to depositing the Absentee Ballots in the Absentee Ballot Box, the Election Board with one (1) law enforcement officer present shall process the Absentee Ballots in the manner detailed below in Section 18.3(b).

- b. Following collection of the Absentee Ballots from the designated United States Post Office on the day before the election, the Election Board shall process the Absentee Ballots, but not count them, 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 17.1(c) 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.
- c. Procedure for Absentee Ballots received after deadline.
 - i. All Absentee Ballots received after the deadline indicated shall be date and time stamped indicating the date and time received.
 - ii. Absentee Ballots shall also be labeled "VOID" and not counted towards the vote count. All "VOID" Absentee Ballots received after the deadline, and after the resealing of the Absentee Ballot box under Section 18.3(b)(6) shall be bound together and stored in the Election Office, and combined with the remainder of the "VOID" Absentee Ballots during the ballot count after the closing of the polls on the day of the election.
- d. Request to Vote at Polling-Site by Absentee Voter
 - i. 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.

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

Page 24

- ii. If an Eligible Voter requests to vote at the Polling-Site pursuant to Section 18.3(d)(1), above, an Eligible Voter who requested an Absentee Ballot shall not be permitted to vote at the Polling Site unless such voter presents the Absentee Ballot he or she received to an Election Board Member who shall review the official list of Eligible Voters required by Section 17.1(c) approved to receive an Absentee Ballot packet to ensure that the person has not already voted by Absentee Ballot. The Election Official shall treat the rejected Absentee Ballot as a Spoiled Ballot.
- iii. 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 required by Section 17.1(c) 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.

18.5 Absentee Ballot Record. The Election Board shall maintain a file of all Absentee Ballot applications received with the date of receipt stamped thereon. Further, the file shall show the names and addresses of all persons to whom Absentee Ballots are delivered, including the date and method of delivery (by US mail or in person), and the date of receipt of the returned Absentee Ballot.

Section 19 Primary Election Procedure.

- 19.1 Any Primary Election held shall be conducted within at least thirty (30) days following the Nomination Petition deadline and within at least sixty (60) days before the General Election.
- 19.2 Any Primary Election conducted by the Election Board 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, unless explicitly stated otherwise.
- 19.3 When a Primary Will be Conducted. The Election Board will hold a Primary Election when:
 - a. Ten (10) or more Candidates are nominated, determined eligible and accept nomination for General Council positions. In the event that less than ten (10) Candidates are nominated, determined eligible and accept nominations for General Council positions will not be included on the Primary Ballot.

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

Page 25

- b. Three (3) or more Candidates are nominated, determined eligible and accept nomination for ANY Executive Council position. Executive Council positions in which one (1) or two (2) candidates have been nominated, determined eligible and accepted nomination will not be included on the Primary Ballot.

19.4 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.

19.5 Primary Tie Vote. See Section 33.1 of this Ordinance.

Section 20 Polling Site Procedure.

20.1 Election Board Member Onsite. At least two (2) Election Board members shall be present at the Polling Site on Election Day at all times.

20.2 If an Election Board member must leave the Polling Site, he or she is prohibited from discussing any election matters with anyone.

20.3 Should any election official who is present at the Polling Site be required to leave due to an illness or an unforeseen emergency, the Chairperson of the Election Board shall be notified immediately.

20.4 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. The Ballot box must then remain locked and sealed through the hours the polls are open.

20.5 The Election Board members must be at the Polling Site at least one (1) hour prior to the opening of the polls with all materials unpacked and in order, ready to receive the first voter at the time designated for opening the polls in the election notice. The Polling Site shall be arranged as required at least one (1) day prior to the date set for the election.

20.6 The Election Board shall clearly post any rules or procedures not contained in this Ordinance and approved by Tribal Council in accordance with Section 2.4(b) at the Polling Site on the day of the election.

- 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.

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

Page 26

- b. The voting instructions and sample Ballot shall be located at a place which voters must pass to reach a voting booth (or location).

20.7 Proxy Voting. Pursuant to Section 21.3 of this Ordinance, there shall be no proxy voting permitted at any time or under any circumstances.

20.9 Pursuant to Section 21.4 of this Ordinance, on the date of the Election, each voter shall sign the Eligible Voter List, compiled pursuant to Section 4 of this Ordinance, next to his or her name. Any voter who signs an "X" shall have this mark witnessed and signed by two (2) Election Board members.

20.10 Absentee Voter Requesting to Vote on Election Day. There will be no exceptions to the procedure below:

- a. At the time the Eligible Voter signs the list, the Election Board member will confirm that the Eligible Voter did not obtain and return an Absentee Ballot.
- b. If the Eligible Voter obtained and returned an Absentee Ballot, he or she will NOT be permitted to vote in person on Election Day.
- c. If the Eligible Voter obtained but did not return an Absentee Ballot, he or she will ONLY be permitted to vote in person if he or she presents the Absentee Ballot to an Election Board member at the Polling Site or signs an affidavit swearing that the Absentee Ballot was lost.

20.11 Disabled Voters. See Section 21.5 of this Ordinance.

20.12 Poll Observers. Each Candidate may designate one (1) poll observer, provided that said individual is an Eligible Voter and not a Candidate for office in the election.

- a. A Poll Observer shall serve as an informal monitor of the election process.
- b. In order to designate a Poll Observer, a Candidate must present to the Election Board no less than five (5) days prior to the Election Date a signed notarized statement that identifies the Candidate's designated Poll Observer and Candidate Representative as prescribed by Section 29.2 (c).
- c. Each Poll Observer shall be identified by a badge, armband, or other appropriate identification issued by the Election Board.
 - 1. Poll Observers shall be seated or placed such that they are not able to see the way a voter casts his/her vote(s).

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

Page 27

2. Poll Observers shall be required to acknowledge and abide by the Candidate Representative Rules of Conduct which shall include but not be limited to:
 - a. A requirement to remain on site at the Polling Site or within 10 feet of the Polling Site from the time the Polling Site opens until the Vote Count is completed.
 - b. A requirement to relinquish their cell phones while at the Polling Site.
 - c. A requirement that they refrain from all activities or verbal expressions that, in the view the Election Board, interfere with the election process, including any alleged dispute.
 - d. The Election Board may eject from the Polling Site any Poll Observer that seeks to or in any way hinders or obstructs the voting process during polling hours or violates the Candidate Representative Rules of Conduct.
 - e. Any Poll Observer dispute shall be handled as a formal challenge to the Election Process. All challenges must be in writing, in accordance with this Ordinance.

Section 21 Voting List on Election Day; Proxy Voting.

21.1 Only upon providing identification and signing the Eligible Voter list shall an Eligible Voter be provided with a Ballot.

21.2 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 list in Section 21.2(a), the Election Board may decide by unanimous vote to allow an individual to cast a Ballot.

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

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

- 21.4 On the date of the Election, each voter shall sign the Eligible Voter List, compiled pursuant to Section 4 of this Ordinance, next to his or her name. Any voter who signs an "X" shall have this mark witnessed and signed by two (2) Election Board Members.
- 21.5 Disabled Voters. Election Board Members are not permitted to assist any Eligible Voter, 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.
 - 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, and voting booths.
- 21.6 Should any voter spoil a Ballot, the voter shall fold and return the Spoiled Ballot in the presence of an Election Board member. Such voter shall then seal said 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.
- 21.7 Once the voters have cast their Ballots, voters must then immediately leave the Polling Site (area) to enable other voters to cast their Ballots.
- 21.8 All voters who are in line to vote at the time designated for the closing of the polls shall be permitted to vote in accordance with Section 28.2 of this Ordinance.

Section 22 Interference with Elections.

- 22.1 The restrictions stated in this Section shall apply to activities on any land owned by the Tribe or held in trust for the Tribe, excluding property leased or used for residential purposes, prior to and including the Election Day for all elections.
- 22.2 No Candidate or Nominee may use Tribal assets or resources to campaign for elective office.
- 22.3 No person, including any Tribal official, employee or representative of the Tribe, may:
- a. post, display, or distribute, any material that directly or indirectly makes reference to an election, a Candidate, or a Ballot question (this subsection does not apply to official ma-

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

Page 29

terial 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 for or against any particular Candidate or for or against any Ballot question that is being voted on at the election;
- 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. either directly or indirectly, give, lend, or promise valuable consideration, to or for any person, as an inducement to influence the manner of voting by a person relative to a Candidate or Ballot question, or as a reward for refraining from voting;
- e. loiter within a building where a Polling Site is located or within fifty (50) feet of any such building, including any parking areas adjacent or appurtenant to such building or area; or
- f. directly or indirectly utter or address any threat or intimidation to an Election Official or other person authorized to administer or enforce election laws, or to conduct, oversee or monitor an election, or to assist in the carrying out of such duties, with the intent to induce such person to do any act not authorized by law or to refrain or delay in the performance of any duty imposed by law.

22.4 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 23. Enforcement.

23. 1. Parties to a Violation.

- a. Whoever participates in the commission of a violation of this Ordinance is a principal and may be so charged with the violation even if he or she did not directly commit the violation and if the person who directly committed violation has been convicted of the same.
- b. A person participates in the commission of a violation of this Ordinance if the person:
 - i. Directly commits the violation; or
 - ii. Aids and abets the commission of it; or
 - iii. Is a party to a conspiracy with another to commit such a violation or advises, hires, or

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

Page 30

counsels or otherwise procures the services of another to commit it.

Section 24. Jurisdiction.

24.1 Jurisdiction is hereby conferred upon the Lac Vieux Desert Judiciary over matters related to the violations of this Code, appeals from Election Board decisions as provided herein or as otherwise provided in the Tribal Constitution or Tribal Law.

Section 25 Account of Ballots.

25.1 All unused and Spoiled Ballots must be accounted for by the Election Board. The unused Ballots are to be preserved along with all Polling Site materials and the Ballot boxes.

25.2 After the polls have closed, the Chairperson of the Election Board, in the presence of the Election Board, shall unlock the Ballot box containing the marked Ballots.

25.3 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. In the event that the number of executed Polling Site Ballots does exceed 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 present.

b. In the event that 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.

Section 26 Ballot and Ballot Boxes.

26.1 All elections shall be by secret Ballot pursuant to Article VII, Section 3(b) of the Constitution, and be conducted in accordance with this Ordinance, and any procedures instituted by the Election Board.

26.2 Ballot Criteria. All Ballots used in elections conducted by the Election Board 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, etc.).

b. All Ballots shall be printed in such a thickness, color and size approved by the Election Board as will render it impossible to look at the back and tell for whom it was marked.

c. Polling Site Ballots shall be marked by the words "Ballot" to indicate the Ballot is to be cast only at the Polling Site.

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

Page 31

- d. Absentee Ballots shall be marked by the words “Absentee Ballot” to indicate the Ballot is only to be used for absentee voting and be marked with the Election Board’s seal.
- e. All Ballots should include the date of the election for which it is valid.
- f. The order the names appear on the Ballot shall be chosen by random process pursuant to section 13.4 of this Ordinance.
- g. All Ballots shall include instructions stating the number of candidates for each office for which a voter may lawfully vote.
- h. All Ballots must be approved by the Election Board prior to mass reproduction for an election.
- i. Ballots shall be supplied by the Election Board in sufficient quantity to assure that each voter whose name appears on the Eligible Voter list may receive a Ballot. Additional Ballots shall be available for replacing Spoiled Ballots.
- j. Ballots shall be stored securely in a locked container prior to being issued both at the Election Location and as an Absentee Ballot. During the Election process and while holding uncast Ballots the locked container shall be located at the Tribal Police Department.

26.3 Absentee Ballot Box. In front of the Election Board, on or before the Day the first Absentee Ballots are mailed out to those requesting them, the Election Board Chairperson shall lock the Ballot box for the Absentee Ballots and place a seal with a randomly selected number to ensure that the Ballot box is not tampered with. The Ballot box and the key to the lock shall remain with the Tribal Police Department until the polls have closed and the Polling Site is free from Eligible Voters. The number on the seal shall be noted for later verification purposes.

26.4 Polling Site Ballot Box. In front of the Election Board, on the Election Day and prior to the opening of the polls, the Polling Site Ballot box shall be inspected by the Election Board. The Polling Site Ballot box must be emptied completely, locked, and place a seal with a randomly selected number to ensure that the Polling Site Ballot box is not tampered with. The Ballot box and the key to the lock shall remain with the Tribal Police Department until the polls have closed and the Polling Site is free from Eligible Voters. The number on the seal shall be noted for later verification purposes.

Section 27 Polling Site.

27.1 The Election Board shall designate the election Polling Site provided that it is located on the Reservation.

27.2 Polls shall be open from 8:00am to 8:00pm CST, on Election Day.

- 27.3 There shall be at least two (2) Election Board members at the Polling Site at all times. If an Election Board member is required to leave the Polling Site for any reason, he or she is prohibited from discussing any matter associated with the election with anyone.
- 27.4 No campaigning, lobbying, or electioneering is permitted at the Polling Site or within a one hundred fifty (150) foot radius of the Polling Site.
- 27.5 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.
- 27.6 Tribal Police will be present to maintain peace at all times while votes are being cast at the Polling Site.

Section 28 Closing of the Polling Site.

- 28.1 During an Election Day the Ballot box is to remain locked at all times and shall never leave the presence of the Election Board members.
- 28.2 The Election Board is to close and lock the Polling Site doors at 8:00:59pm CST.
- a. Those Eligible Voters who are in line at 8:00:59pm CST 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 under Section 28.2(a) of this Ordinance shall be permitted to vote.
- 28.3 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.

Section 29 Vote Count.

- 29.1 Tribal Police will be present at the Polling Site to maintain the peace at all times during the counting of the Ballots.
- 29.2 Each Candidate may choose one (1) representative to be present during the vote count by the Election Board. See Article VII, Section 5(g) of the Constitution.
- a. Each Candidate Representative must abide by the Candidate Representative Rules of Conduct prescribed by the Election Board.
 - b. A violation of said Rules will result in the Candidate Representative being expelled from the Polling Site during the vote count and may result in criminal penalties.

- c. The Candidate Representative chosen by the Candidate must be provided in writing and notarized by the Candidate or witnessed by the Election Board to the Election Board five (5) days prior to the counting of the votes.

Section 30 Ballot Counting and Results.

30.1 Announcing the Count. Prior to the beginning of the vote count, the Chairperson of the Election Board shall verbally announce that no individual shall be authorized to leave and re-enter the ballot counting area while counting is in progress.

30.2 Tallying. Unless otherwise provided for by electronic balloting, each Election Board member shall be responsible for determining the validity of the Ballot and for tallying the Ballots.

- a. During the count, each Election Board member shall acknowledge the validity of the Ballot verbally, verbally announce the choice or choices indicated on the Ballot, and keep a written tally of the Ballot choices.
- b. Following completion of the initial count, the tally sheets must be compared; if there is any discrepancy between the totals on the tally sheets, the Election Board must mark those sheets as “VOID” and restart the tally process.
- c. The ballot count is complete when the choices on all ballots have been announced, tallied, and the separate tally sheet totals match.

30.3 Ballot Counting – Presence of Candidate or Candidate Representative

- a. Candidates may choose to be present to observe the ballot count or may choose to have a representative present during the count. The Candidate or representative must remain quiet during the counting process and must not hinder or interfere with the counting process in any manner.
- b. Any infraction of this Section shall result in the Candidate or Representative being asked to leave the counting area.
- c. Candidates and Candidate Representatives are prohibited from conversing, in any manner, with voters and election officials, including the Election Board, and prohibited from divulging any information as to the count prior to the certification of the Election Results.
- d. If an interference occurs, the Chair of the Election Board shall call for a suspension in the count until the individual or individuals responsible for the interference is removed from the counting area.
- e. If a returned Ballot contains a Spoiled Choice, the Spoiled Choice shall not be counted as a Vote, but the remaining portions of the Ballot shall be counted.

30.4 Counting Absentee Ballots. Each Election Board member shall inspect each returned Absentee Ballot which has been determined to have been returned with a valid certificate in accordance with this Ordinance.

- a. If the Returned Absentee Ballot contains a Spoiled Choice, the Spoiled Choice shall not be counted as a Vote, but the remaining portions of the Returned Absentee Ballot shall be counted.
- b. If the Election Board determines that a Returned Absentee Ballot is a marked Absentee Ballot, the marked Absentee Ballot shall be tallied as a Vote and counted for purposes of the election.

Section 31 Posting of Uncertified Voting Results.

31.1 Immediately upon the completion of the vote count the Election Board shall post the uncertified election results at the Tribal Administrative Offices.

Section 32 Challenges to the Accuracy of the Ballot Count – Request for a Vote Recount.

32.1 Any challenge to the vote count 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 challenge to the vote count, and only for the office for which he or she was a Candidate. The Candidate challenging the vote count and requesting a recount must be present during the entire recount or the challenge will be determined void.
- b. The Election Board must complete any recount for the particular office within three (3) Days of the challenge.

32.2 Referendum, Initiative Recount Request. Any Eligible Voter may request a recount regarding a Referendum vote or an Initiative vote.

- a. The Election Board must complete any recount for a Referendum vote or an Initiative recount within three (3) Days of the challenge.

32.3 Decisions of the Election Board regarding challenges to the vote count shall be final.

32.4 Nothing in this Section 32 precludes an Eligible Voter from filing a complaint with the Tribal Judiciary based upon allegations of impropriety in accordance with Article VII, Section 5(e) of the Constitution and Sections 2.12 of this Ordinance.

Section 33 Tie Vote: General and Primary.

33.1 Primary Tie Vote. If the counting of votes results in two (2) or more persons who are Candidates

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

for the same elective office receiving an equal number of votes the individuals receiving the same number of votes shall both proceed to the General Election, even if this results in three (3) or more individuals moving to the General Election.

33.2 **General Election Tie Vote.** If the counting of votes results in two (2) or more persons who are Candidates for the same elective office receiving an equal number of votes, the Election Board shall:

- a. announce that a tie has occurred and shall include the tie in the uncertified election results,
- b. schedule a run-off election for the purpose of breaking the tie.

33.3 **Run Off Election Procedure.**

- a. The Election Board shall schedule the Run Off Election to occur within thirty (30) Days from the election that resulted in the tie in any General Election.
- 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 request a new Eligible Voter list for the Run Off Election.
- d. 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 34 Certification and Posting of Election Results.

34.1 Upon the posting of the Uncertified Election Results, and the conclusion of any challenge or appeal as provided by this Ordinance, the Election Board is to certify the results of the Election by signing the Official Notice of Election Results and posting the results at locations within the Community designed to give proper notice to all Community members.

Section 35 Election Challenge Timeframe.

35.1 Any Member shall have three (3) Business Days from the date of the election to file an election challenge, including a primary election, with the Election Board pursuant to Article VII, Section 5 (h) of the Constitution.

35.2 Any challenge that is not brought within the prescribed timeframe and in the prescribed manner is waived.

Section 36 Election Challenge Procedure.

36.1 Filing a Challenge. Any Eligible Voter may file a challenge to the Official Notice of Election Results by filing a written Notice of Challenge with the Election Board within five (5) Business Days from the date of the Election.

- a. The Notice of Challenge shall be printed or legibly written by hand and clearly state the grounds for the challenge.
- b. The Challenger shall clearly indicate the grounds for the challenge. The following are grounds for challenges:
 - i. Allegations of fraud by other than the Election Board. Election results may be challenged on the basis of an allegation of fraud by a Candidate.
 - ii. Allegations of Irregularities other than Fraud. Election results may be challenged on the basis of an allegation of irregularities other than fraud if such challenge alleges a sufficient number of irregularities of such a nature that:
 1. The outcome of the election would have been contrary to the reported result; or
 2. Proves that it is impossible to determine with mathematical certainty which Candidate is entitled to be certified as elected, or in an election concerning a Referendum, Initiative, Recall, or Constitutional amendment, that the outcome of the election is impossible to determine with mathematical certainty.

36.2 Processing of Challenge. Upon receipt of the Notice of Challenge, the Election Board shall date stamp the Notice and initial each page of the Notice.

36.3 Notice of Hearing. Within twenty-four (24) hours of receiving the Notice of Challenge the Election Board shall:

- a. Issue a Notice of Hearing containing the time, location and date in which the Challenge will be heard by the Election Board which shall be no less than five (5) Days from the date of the receipt of the Challenge; and
- b. The procedures to be used at the hearing.

36.4 Challenge Hearing

- a. Procedure. The Election Board will develop procedures for Challenge Hearings to be held

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

Page 37

pursuant to this Section 36 that are appropriate under the circumstances. These procedures may include some or all of the following:

- i. Opening statements
 - ii. Presentation of evidence and/or witnesses by the Election Board and the individual who requested the Challenge Hearing.
 - iii. Cross examination
 - iv. Questions for Election Board members, witnesses, or the individual who requested the Challenge Hearing.
 - v. Closing statements.
- b. Waiver by Failure to Appear. If the individual who requested the Challenge Hearing does not attend the hearing, and has not requested a rescheduling within twenty-four (24) prior to the Challenge Hearing, nor has a valid reason for not attending the hearing, the Challenge will be considered waived.
- c. Record. The Election Board shall compile a written record both before and at the Challenge Hearing.
- i. The individual requesting the Challenge Hearing shall be entitled to receive a copy of the record.
 - ii. The record shall consist of all documents submitted in connection with the Challenge Hearing and all other documents determined by the Election Board to be relevant to the subject of the hearing.
- d. Electronic Recording of Challenge Hearing. The Election Board shall record all Challenge Hearings.
- e. Within ten (10) days after an election challenge has been filed, the Election Board must issue a written decision setting out its findings of fact and conclusion regarding the veracity of the challenge. The decision must identify all evidence presented at the hearing and all evidence the Board relied upon.

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

36.6 Nothing in this Section 36 precludes an Eligible Voter from filing a complaint with the Tribal Judiciary based upon allegations of impropriety in accordance with Article VII, Section 5(e) of the Constitution and Sections 2.12 of this Ordinance.

Section 37. Election Procedure Audit.

37.1 Upon direction from the Tribal Council, the Election Board shall fully cooperate and provide

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

Page 38

requested documentation to an auditor retained to conduct a review of the Tribe's election procedures.

Section 38 Petitions.

38.1 Initiatives. Pursuant to Article IX, Section 1 of the Constitution, Tribal Members shall, by Initiative, have the power to propose to the Tribal Council any ordinance, amendment of an ordinance, or repealing of an ordinance, unless otherwise prohibited by Article IX, Section 1(a) of the Constitution.

38.2 In accordance with Article IX of the Constitution 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. The number of Eligible Voters necessary meet the requirements of Article IX, Section 1(b)(1) to be completed by the Enrollment Clerk.
 - 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.

38.3 Recall/Removal of Tribal Council Member.

- a. A Recall Petition must adhere to the requirements of the Recall/Removal Ordinance, Tribal Council Resolution 2011-055.

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

- b. **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:

RECALL PETITION

We, the undersigned Eligible Voters of the Lac Vieux Desert Band of Lake Superior Chippewa Indians, hereby petition for the recall/removal of _____ (name of official) from the office of _____ (name of office) for the following reason(s) (explain in 200 words or less):

- 38.4 **Constitution Amendment Petition.** Pursuant to Article XV of the Constitution, Tribal Members shall have the power to propose a Constitutional amendment. All Constitution Amendments shall be governed by 25 CFR Part 81.
- 38.5 **Form of Petition.** The Election Board will prepare and make available a Petition that complies with all requirements for Initiatives, Recall and Constitutional Amendments. Eligible Voters are not required to use the form made by Election Board, however, any Petition submitted to the Election Board must be in compliance with the requirements of this Ordinance, the Recall/Removal Ordinance – Tribal Council Resolution 2011-055, 25 CFR Part 81, and the Constitution.
- 38.6 **Required Signatures.**
- a. Initiative Petitions must be signed by at least twenty-five (25) percent of the Eligible Voters as required by Article IX, Section 1(b)(1) of the Constitution.
 - b. Recall Petitions must be signed by at least fifty-one percent (51%) of the Eligible Voters as required by Article VII, Section 1(a) of the Constitution.
 - c. Constitutional Amendment Petitions must be signed by at least one-third (1/3) of the Eligible Voters as required by Article XV of the Constitution, to be valid.
- 38.7 **Verification of Signatures.** Upon receipt of a Petition, at least two members of the Election

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

Board shall date stamp and initial each page of the Petition and provide a copy to the Circulator.

- a. No person, including members of the Tribal Council, Election Board, Circulator, or Eligible Voters, shall have any right to make any changes, alterations, deletions or additions to the Petition once it has been received by the Election Board.
- b. All Petitions shall be considered confidential until such a 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 Petition, to examine the 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 Petition and the signatures on any filed Petition by comparing the Eligible Voter list to the names on the Petition within seven (7) days of receipt of the Petition.

38.8 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. Initiative Petition: Upon validation of an Initiative Petition, the Circulator shall present the Petition to the Tribal Council at the next regularly scheduled Tribal Council meeting or request a Special Tribal Council meeting, whichever occurs first.
 - i. Notice of the Tribal Council meeting where an Initiative Petition will be presented shall be provided to the Election Board in advance of the meeting.
 - ii. After presentation to the Tribal Council at the meeting described above, the Initiative Petition shall be deemed “filed” pursuant to Article IX, Section (b)(2).
 - iii. The Tribal Council Secretary shall provide notice to the Election Board that a Petition has been filed with the Tribal Council within three (3) days of the filing of an Initiative Petition.
 - iv. Within thirty (30) days of being presented with an Initiative Petition, the Tribal Council may propose a different ordinance or amendment to an ordinance upon the same subject as the verified Initiative Petition and direct the Election Board to call an Election on the Initiative Petition.
 1. If the Tribal Council submits a different ordinance or amendment to an ordinance upon the same subject as the verified Initiative Petition as described above, both proposals shall be submitted to the Eligible Voters at the same Special Election pursuant to Article IX, Section 1(b)(3) of the Constitution.

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

Page 41

2. If the Tribal Council does not submit a different ordinance or amendment to an ordinance upon the same subject as the verified Initiative Petition, the Tribal Council still has the option to direct the Election Board to call a Special Election as provided for in Article IX of the Constitution at any time after the Initiative Petition has been filed but before the thirtieth (30th) day from the filing date.
- v. If the Tribal Council fails to call an election for a filed and verified Initiative Petition, the Election Board shall submit the Initiative Petition to the Eligible Voters by holding an Special Election in accordance with Article IX of the Constitution.
- b. **Recall Petitions.** Upon validation of a Recall Petition, the Election Board shall hold an election pursuant to the Recall/Removal Ordinance – Tribal Council Resolution 2011-055.
 - c. **Constitution Amendment.** Upon validation of a Constitution Amendment Petition, the Circulator shall bear all responsibility to carry out necessary requirements to seek a Secretarial Election pursuant to 25 CFR 81.
 - g. **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 Tribal Community, including but not limited to the Tribal Administration Building and within the Election Board office.
- 38.9 **Dispute Regarding Signature on 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 38, 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

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

the Petition list is final.

- 38.10 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.
- 38.11 Nothing in this Section 38 precludes any Eligible Voter from filing a complaint with the Tribal Judiciary based upon allegations of impropriety in accordance with Article VII, Section 5(e) of the Constitution and Section 2.12 of this Ordinance.
- 38.12 Notice of Election on Petition. 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.
- 38.13 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 in accordance with Article IX, Section 1(b)(4) or Article VIII, Section 1(e), respectively.

Section 39 Referendum.

- 39.1 Pursuant to Article IX, Section 2(a), 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.
- 39.2 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.

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

Page 43

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.

39.3 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.

39.4 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.

39.5 Notice of Referendum Election. The Referendum Election shall follow the same procedure and timeline, as far as practicable, as a general 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.

39.6 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 in accordance with Article IX, Section 2(b)(2) of the Constitution.

Section 40 Effective Date of Approved Initiative or Referendum; Amendment to Approved Initiative.

40.1 Any Initiative or Referendum approved pursuant to the provisions of this Ordinance shall take effect no later than ten (10) Days after certification of the election in which the Referendum or Initiative was proposed in accordance with Article IX, Section 3 of the Constitution.

41.2 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 pursuant to Article IX, Section 3 of the Constitution.

Section 41 Installation of Elected Officials.

41.1 Term of Office. The term of office for the Tribal Council, unless otherwise specified by the Constitution, shall be determined pursuant to Article III, Section 1(b) of the Constitution.

41.2 Oath of Office. Every Tribal Council Elect member, before assuming the powers and duties of a Tribal Council member, shall take the oath of office, set forth below, given by the outgoing Tribal Council in accordance with Article VII, Section 2(c) of the Constitution.

a. The oath of office shall be as follows: "I do solemnly swear I will support and defend the Constitution of the Lac Vieux Desert Band of Lake Superior Chippewa Indians. I pledge my honor to perform the duties of my office honestly, faithfully, and to the best of my ability."

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

Page 44

Section 42 Failure to Assume Office

42.1 Any person elected to Tribal Council and certified by the Election Board as a winning Candidate shall take the oath of office and be sworn in at the next regularly scheduled Tribal Council meeting following the date on which the Election Board certifies the results of the regular or special election at which such Member was elected. Any person who fails or refuses to take the oath of office within the time allowed under this Section shall be deemed to have declined to serve in the office which such person was elected.

42.2 The Election Board shall provide written notice to such person described above in Section 42.1 no later than two (2) Business Days following the date of the regularly scheduled meeting at which the swearing in occurred. The written notice shall include:

- a. Notice that the individual failed or refused to appear to take the oath of office and be sworn in,
- b. Must contact the Election Board to arrange to take the oath of office and be sworn in at the next scheduled Tribal Council meeting,
- c. Failure to take the oath of office and be sworn in at the prescribed date and time shall be deemed a declination to serve, and
- d. Upon a deemed or actual declination to serve a vacancy will be determined to exist and will be filled in accordance with applicable provisions of the Tribal Constitution.

42.3 A copy of the written notice provided under Section 42.2 shall be provided to the Tribal Council.

42.4 Upon a declination to serve the Election Board shall:

- a. Provide written confirmation of the Election Board's receipt of the individual's decision to decline acceptance;
- b. Provide a copy of said confirmation under Section 36.4 (a) to the Tribal Council; and
- c. File a copy of the written confirmation letter in the declining individual's Candidate file.

Section 43 Miscellaneous

43.1 **Administrative Fees.** The Election Board shall enact reasonable fees associated with election matters. The Election Board shall publish the current fee list prior to the upcoming election. The list shall include the fees for:

- a. A Nomination Petition fee payable to the Election Board delivered to the Accounting Office

Approved by Tribal Council

Resolution 2012-032

Amended by Resolution T2014-061

June 7, 2016 Amendments - Approved by Tribal Council Motion

of the Tribe, the receipt of which will be due at the time of filing of the Nomination Petition with the Election Board in accordance with Section 10.

- i. Cash, money order, or certified check are the only acceptable forms of payment. Personal checks will not be accepted.
 - ii. Failure to pay the fees required will result in a determination of ineligibility for Candidacy.
- b. All fees shall be posted at the Tribal Administrative Offices and at the Election Board Office, and any additional locations the Election Board designates within this Ordinance. .
 - c. All fees collected shall be accounted for by the Election Board Chairperson, with a copy of such accounting forwarded to the Tribal Accounting Department.
 - d. All fees shall be made available by the Tribe for use by the Election Board to conduct official duties and responsibilities, any excess shall be retained within the Election Board budget for use in paying the Election Board member compensation and other related items.
- 43.2 Other Fees. Administrative fees for frivolous legal challenges shall be determined and assessed by the Court.

Addendum A

Determination of Fifty (50) Mile Radius of the Reservation

- Section 1.** Determination of location of Candidate. Upon receipt of a Nominee's acceptance of nomination the Election Board shall make a determination of whether or not the Nominee is within the Fifty (50) Mile Radius of the Reservation as required by Article VII, Section 4 of the Tribal Constitution and Section 12 of this Ordinance.
- Section 2.** The Election Board shall make the determination required in Section 1, above, by inputting the Nominee's address into the Google Earth database.
- Section 3.** If the address is found to not fall within the fifty (50) mile radius two (2) Election Board members shall accompany the Planning Department Director to the location of the Nominee's residence, as provided by the Nominee, and obtain the global positioning coordinates of said location.
- a. The two (2) Election Board Members and Planning Department Director shall complete a certification indicating the location of the Nominee's residence, date and time, and coordinates obtained.
 - b. Once the global positioning coordinates have been obtained, the Election Board Members shall use the said coordinates into the Google Earth database and make a determination of whether or not the Nominee's residence falls within the Fifty (50) Mile Radius of the Reservation.
 - c. If the address is found to fall outside the defined Fifty (50) Mile Radius of the Reservation, the Nominee will be determined to be ineligible to run for elected office and shall be notified of that determination.
 - d. If the Nominee's address, following analysis via global positioning coordinates, is found to fall within the defined Fifty (50) Mile Radius of the Reservation, such a determination will be recorded by the Election Board in addition to the other eligibility criteria.
- Section 4.** If the Nominee is determined to reside within the defined Fifty (50) Mile Radius of the Reservation such a determination will be recorded by the Election Board in addition to the other eligibility criteria.