



Election Ordinance of The Prairie Island Indian Community in the State of Minnesota

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Table of Contents

Article I. Purpose and Scope..... 1

Article II. Authority..... 1

Article III. Qualified Voter and Voter Responsibilities 1

Article IV. The Election Board (the “Board”)..... 1

Article V. Official Election Ballots 5

Article VI. Official Election Ballot Boxes..... 5

Article VII. Poll Voting Procedures..... 5

Article VIII. Absentee Voting 7

Article IX. Certification of Election Results 8

Article X. Election Challenges and Recounts 9

Article XI. Community Council Elections 10

Article XII. Referendum Elections 12

Article XIII. Elections to Amend Constitution..... 16

Article XIV. Repeal of Prior Election and Referendum Ordinances and Resolutions..... 16

Article XV. Severability..... 17

Article I. Purpose and Scope

This Ordinance establishes a comprehensive election ordinance governing the conduct of elections for the selection of the Community Council for the Prairie Island Indian Community (“Community”) pursuant to Article VI of the Constitution and Bylaws of the Prairie Island Indian Community in Minnesota as adopted by community members on May 23, 1936, and approved by the Secretary of the Interior on June 20, 1936, as amended (the “Constitution”), for special elections pursuant to Article VII of the Constitution, for Referendum elections pursuant to Article VIII of the Constitution, for Secretarial Elections pursuant to Article XIII of the Constitution, and for other elections including but not limited to special and run-off elections as provided by the Constitution.

Article II. Authority

This Ordinance is adopted under the authority of the Constitution at Article V, Section 1(k) (Enumerated Powers), Article VI, Section 2 (Elections), Article VII, Section 2 (Special Elections), Article VIII (Referendum), and Article XIII (Amendments of Constitution and Bylaws).

Article III. Qualified Voter and Voter Responsibilities

Section 1. A “qualified voter” is any individual who is a duly enrolled member of the Community and who will be 18 years of age or older by the date of the next scheduled election. A qualified voter has the right to vote in any election. “Duly enrolled member” means any person who has been accepted as a member of the Community.

Section 2. It is the responsibility of each member to be sure he or she has met the requirements to be a qualified voter. It is also the responsibility of the qualified voter to immediately notify the Election Board of any change of address.

Article IV. The Election Board (the “Board”)

Section 1. Board Officers. The Board will consist of two election judges and two election clerks, appointed by Council. The Council will also appoint one alternate election judge and one alternate election clerk to serve on an as-needed basis. All Board appointees and alternates must be qualified voters of the Community.

Section 2. Disqualifications. No person may be appointed to, or serve on, the Board or as an alternate who: (1) currently holds a Community elective office; (2) plans to be a candidate for Community Council; or (3) has signed or circulated a petition calling for a referendum vote that would occur during his or her tenure on the Board.

Section 3. Appointment and Terms of Office. The Community Council will appoint the Board and alternates before each election.

Subsection A. For Community Council elections, the Community Council will appoint Board members at the conclusion of the October Quarterly Community meeting before the general election.

Subsection B. For special elections, the Community Council will appoint Board members by resolution calling for a special election to fill a Community Council vacancy.

Subsection C. For referendum elections submitted by the Community Council, the Community Council will appoint Board members in the resolution referring the matter for a referendum election.

Subsection D. For referendum elections by petition of Community members, the Community Council will appoint Board members at the time the Community Council certifies the referendum petition.

Subsection E. A Board member's term ends when the election results of the election for which they were appointed are certified as set forth at Article IX or declared final under Article X.

Subsection F. In the event of a vacancy on the Board for any reason, the Community Council will, at its next regularly scheduled meeting, appoint an individual to fill the vacated position and to serve the remainder of that term.

Section 4. Disqualification After Appointment. If after appointment, any Board or alternate member or immediate family member should be nominated or otherwise become a candidate for Community office, or a Board member becomes otherwise ineligible for service under Article IV(2), the Board member will be disqualified from serving in that election. When the Community Council determines the existence of a disqualifying circumstance, the Community Council will, by resolution, appoint an individual to replace the disqualified member. For purposes of this section, an immediate family member is defined as a full sibling, half-blood sibling, step-sibling, parent, step-parent, child, step-child, or spouse.

Section 5. Oath. Upon appointment to the Board or as an alternate, each Board member must sign an oath that becomes part of the election records stating that he or she will serve according to the best of his or her ability and will make every effort to prevent fraud and abuse of the election process.

Section 6. Duties. The Board will administer all elections, except Secretarial elections administered under direction of the Secretary of the Interior or his or her delegated representative (the "Secretary of the Interior"). The Board may administer Secretarial elections if the Secretary of the Interior so determines and authorizes. The Board will perform all duties set forth in this Ordinance and Article VI, Section 2

(Elections) and Article VIII (Referendum) of the Constitution. Failure to perform any duties prescribed by the Constitution or by this Ordinance is cause for immediate removal by a majority vote of the Community Council. Any Board member replacement is governed by Section 3(F) of this Article.

Subsection A. The Election Judges will:

1. Oversee the entire election process and ensure compliance with the Constitution and this Ordinance;
2. Promptly decide any challenges made to voter eligibility, candidate eligibility, election procedures, and recounts as authorized by Article X;
3. Obtain criminal background checks on all candidates for Community Council as set forth at Article XI, Section 3;
4. One Judge will pick up absentee ballots from the Red Wing Post Office at 4:00 p.m. on the day of the election and bring them to the Prairie Island Community Center, 1158 Island Boulevard, Welch, Minnesota ("Community Center"), and deliver them to the voting area designated by the Board ("the Poll") for counting by the Election Judges;
5. Count the ballots cast at an election;
6. Conduct any necessary recounts;
7. Certify the results of the election as required by Article IX; and
8. Notify the Community Council and the Chief Judge of the Appellate Court of the Prairie Island Mdewakanton Dakota Community (the "Appellate Court") of the results of the election.

Subsection B. The Election Clerks will:

1. Obtain a list of nominated candidates from the Community Council Secretary;
2. Print or have printed ballots with the candidates listed alphabetically;
3. Post an initial list of candidates at the Community Center following the nomination meeting, and a final list of candidates at the Community Center once the Board confirms qualifications of the candidates and the candidate challenge deadline has passed or all challenges have been resolved;

4. Acquire a list of qualified voters from the Enrollment Clerk and post at the Community Center at least 21 days before the election date;
5. Set up and supervise the Poll on election day;
6. Obtain a secure Post Office Box at the Red Wing, Minnesota Post Office to be used exclusively for election purposes, including the receipt of absentee voting ballots;
7. Retain custody of all ballots cast until such ballots are turned over to the Election Judges for counting;
8. One Clerk will pick up absentee ballots from the Red Wing Post Office at 4:00 p.m. on the day of the election, bring them to the Community Center and deliver them to the Poll for counting by the Election Judges;
9. Assist the Election Judges in counting the ballots;
10. Ensure that all necessary supplies for the election are available; and
11. Maintain a list of absentee voters.

Subsection C. The Alternate Election Judge must:

1. Attend all meetings of the Board;
2. Have knowledge of the duties and responsibilities of an Election Judge; and
3. Assume the respective duties and responsibilities of an Election Judge should any Election Judge be absent, unable, or unwilling to fulfill such duties and responsibilities.

Subsection D. The Alternate Election Clerk must:

1. Attend all meetings of the Board;
2. Have knowledge of the duties and responsibilities of an Election Clerk; and
3. Assume the respective duties and responsibilities of an Election Clerk should any Election Clerk be absent, unable, or unwilling to fulfill such duties and responsibilities.

Article V. Official Election Ballots

Section 1. Official Poll Ballots must be printed on colored paper with black ink. The number of Official Poll Ballots printed for any election must equal the number of qualified voters eligible to vote in such election.

Section 2. Official Absentee Ballots must be printed on colored paper of a different color than the Official Poll Ballots with black ink.

Section 3. Sample Poll Ballots and Sample Absentee Ballots must be printed on white paper with black ink. Any sample ballot must be clearly labeled "SAMPLE BALLOT" and will not be counted if placed in either Poll or Absentee Ballot Boxes.

Article VI. Official Election Ballot Boxes

Section 1. There will be an official poll ballot box ("Walk-in Ballot Box") for poll votes.

Section 2. There will be an official absentee ballot box ("Absentee Ballot Box") for absentee votes.

Section 3. There will be an official spoiled ballot box ("Spoiled Ballot Box") for void and spoiled ballots.

Article VII. Poll Voting Procedures

Section 1. Voting will take place at the Poll. The Poll will be open for voting from 8:00 a.m. until 8:00 p.m. the day of any election. Any voter in line at 8:00 p.m., as determined by an Election Judge, must be allowed to vote. At least one Election Judge and one Election Clerk must be present at the Poll at all times. Only Board members and, if applicable, a candidate's designated poll watcher, may remain within the Poll. No other individual is permitted within the Poll or allowed to loiter within 50 feet of the Poll, except those persons waiting, entering, or leaving the Poll to vote. No person may campaign, place campaign materials, or cause disruptive noise within 200 feet of the Poll.

Section 2. A Board member must verify a voter's identity by visual comparison with any form of government-issued photo identification presented by the voter. Once a Board member has verified the individual's identity and determined the individual is a qualified voter, the Board member will note such verification by signing his or her initials in the poll book next to the voter's name. The eligible voter must then sign his or her name in the poll book next to his or her listed name. If the voter is unable to sign his or her name, a Board member will write "UNABLE TO SIGN" by that name. The voter will then be issued a ballot. Within a private area at the Poll, the voter will vote by marking the ballot appropriately. The voter may request voting assistance

from a Board member or person designated by the voter who will assist as the voter directs. After the voter has completed voting, the voter must fold the ballot and deposit the ballot personally, or with assistance of a Board member or person designed by the voter upon the voter's request, in the locked Walk-in Ballot Box.

Section 3. If a voter makes a mistake on or accidentally destroys a ballot, the voter may request a new ballot from a Board member. A Board member may issue a new ballot to replace the destroyed ballot and note the replacement in the poll book. The spoiled ballot will be marked "spoiled" by a Board member. All spoiled ballots are separately retained by the Board, placed in the Spoiled Ballot Box, and are not counted. A ballot will not be considered spoiled because the voter failed to properly mark the ballot if, in the opinion of the Election Judges, the voter's intent can be clearly determined from the mark made by the voter.

Section 4. Immediately after the Poll closes and all qualified voters in line at the time of closing have voted, the Board will clear the Poll of all persons other than Board members and any designated poll watcher. The Board will then immediately count the votes cast and post the preliminary results of the election in a publicly accessible location either within the Community Center or outside the Community Center, provided any interior posting is visible to those outside the Community Center. If no recount is requested and no petition is filed as set forth in Article X, the Board will certify the election and deliver the final results to the Community Council and the Appellate Court within 24 hours of the posting of the preliminary results of the election.

Section 5. Immediately after the Board counts the ballots, the counted poll ballots will be returned to the Walk-in Ballot Box and the counted absentee ballots will be returned to the Absentee Ballot Box. All ballot boxes will be sealed and personally placed in the Treasure Island Casino vault by the Election Judges. The ballot boxes will remain in the vault until the next election. The Board may only remove the ballot boxes from the vault under a duly requested election recount or by order of the Appellate Court. Immediately after any recount or issuance of a final court decision, the boxes will be returned to the vault and remain in the vault until the next election. At the next election, the Board will remove the ballot boxes from the vault and the ballots will be stored by the Legal Department.

Article VIII. Absentee Voting

Section 1. Under the Community's Constitution, absentee voting is permitted.

Section 2. Within five days after the Community Council nomination meeting, the Board will mail an Absentee Ballot Request Application Form and a self-addressed return envelope to all qualified voters via regular First Class mail. Each voter who desires to vote by absentee ballot must complete and sign the Absentee Ballot Request Application Form and return it in the self-addressed return envelope provided. The Board must *receive* the request no later than 4:00 p.m., 11 days before the election. **The Board will not process any Absentee Ballot Request Application Form (or other request for an absentee ballot) if received after 4:00 p.m., 11 days before the election.**

Section 3. Upon receipt of a properly completed and signed Absentee Ballot Request Application Form, the Board shall mail the voter, within three working days, an Official Absentee Ballot by certified return receipt mail. The Board will prepare and keep a list of all voters to whom an absentee ballot is mailed. The absentee ballot must consist of a paper ballot that meets the requirements of Article V, Section 2, a voter's instruction sheet as approved by the Board, an inner security envelope, an outer security envelope, and a return, postage-paid, mailing envelope self-addressed to the Board.

Section 4. The voter's return receipt may be signed by any authorized recipient for the voter's postal address and it is not necessary for the voter to sign the return receipt card personally. The voter is responsible for assuring the receipt of his or her absentee voting forms and ballots.

Section 5. A voter must mail his or her absentee ballot to the Board Post Office Box for receipt by the Post Office no later than 4:00 p.m. on the day of the election. Ballots received by the Post Office after 4:00 p.m. on the day of an election will not be counted. Any non-counted ballots will be kept separate by the Board, marked as "LATE RECEIVED NON-COUNTED BALLOTS," and placed in the Spoiled Ballot Box.

Section 6.

Subsection A. The absentee voter must mark the ballot and place it in the inner security envelope and seal it. Nothing may be printed or written upon the inner security envelope except the words "INNER SECURITY ENVELOPE." The voter must then place the inner security envelope in the outer security envelope that must be signed and dated by the voter. The outer security envelope must also include a witness's signature, printed name, statement of being 18 years of age or older, a valid residence street address, and date. The voter must then seal the outer security envelope and place it in

the return envelope. The return envelope will be sealed by the voter and placed in the United States Mail for return to the Board.

Subsection B. The absentee ballots will remain in the Board Post Office Box until 4:00 p.m. on election day when they will be picked up by one Election Judge and one Election Clerk and returned to the Poll. **No Absentee Ballot may be counted by the Board if received by the Post Office after 4:00 p.m. on the day of the election, except if delivered to the Poll before closing thereof in accordance with Section 7.**

Subsection C. A Board member will open the return envelope and compare the signature on the outer security envelope with the signature on the Absentee Ballot Application Form. If, in the opinion of the Board, the signatures do not match, the absentee ballot will be rejected. In the event that a ballot is rejected because of an improper signature, the outer security envelope shall not be opened and the ballot will not be counted. All envelopes will be placed together, marked "REJECTED ABSENTEE BALLOT," and deposited in the Spoiled Ballot Box. If the signatures match, the outer security envelope may be opened. The inner security envelope will be given to another Board member who will open the inner security envelope and deposit the ballot in the locked Absentee Ballot Box to be counted. All envelopes will, after counting the absentee ballots is completed, be placed in the Absentee Ballot Box.

Section 7. Absentee ballots that are hand-delivered to the Poll will not be counted. An absentee voter may, however, surrender his or her absentee ballot to the Board, or certify that his or her absentee ballot has been lost, and request his or her absentee ballot be voided and not counted. And upon verification by the Board that the voter is a qualified voter, the voter will be allowed to vote at the Poll and such vote will be placed in the Walk-in Ballot Box and counted. Any hand-delivered, non-counted absentee ballots will be kept separate by the Board, marked as "HAND-DELIVERED VOID NON-COUNTED ABSENTEE BALLOT," and placed in the Spoiled Ballot Box along with all certifications for a lost ballot.

Section 8. At the closing of the poll, the Board will open the Spoiled Ballot Box and allow any poll watcher to challenge the rejection of any ballot in the Spoiled Ballot Box. The decision of the Board regarding such challenged ballot is final. If a challenge is granted, the outer and inner envelopes will be opened, the vote added to the absentee vote count, and the ballot deposited in the Absentee Ballot Box. The envelopes for such ballot will be placed together and marked "CHALLENGED AND ACCEPTED ABSENTEE BALLOT" and placed in the Absentee Ballot Box.

Article IX. Certification of Election Results

Within 24 hours of the posting of the results of the election or recount, the Election Judges must certify the results of all elections or recounts, and deliver the original

certification to the Community Council with a copy to the Appellate Court. If the Election Judges fail to certify the election or recount within 24 hours, the Appellate Court will certify the election results from the records of the Board.

Article X. Election Challenges and Recounts

Section 1. Recount. For Community Council elections, any candidate for Community Council may request a recount by written request to the Board. For referendum elections, the Community Council or a qualified voter may request a recount by a written request to the Board. Any request for a recount, in any election, must be received by the Board within 24 hours after the Board has certified the results of the election, or by the Appellate Court within 24 hours after the Appellate Court has certified the results of the election under Article IX. The decision of the Board as to whether or not to conduct a recount is final. There may be only one recount that will include all votes.

Section 2. Judicial Challenge.

Subsection A. In the event of alleged extreme irregularity in the election process, alleged fraud in the election process, or alleged misconduct by an individual involved in the election process, the Election Judges or any qualified voter in the Community may, within 48 hours of the certification of any election or recount, file a written complaint in the Appellate Court. The Appellate Court must hold a hearing within 72 hours of the filing of the complaint.

Subsection B. Within 24 hours of the filing of the complaint, the complainant must deliver or have delivered copies of the complaint to:

1. any individual alleged to have committed or allowed the extreme irregularity, alleged fraud, or alleged misconduct; and
2. any candidate that may be affected (for Community Council elections), to the Community Council (for Community Council initiated referendum elections), or to each petition signer (for Community initiated referendum elections).

Subsection C. At the hearing, the Appellate Court must accept testimony and other evidence from the Board and other interested parties concerning the election and the complaint. At the conclusion of the hearing, the Appellate Court may: (1) order a new Community Council election to be conducted within 21 days of its order, or within 60 days for a referendum election; (2) disqualify candidates from the election; (3) certify the election results; or (4) order such other and further relief that the Appellate Court deems just and

equitable under the circumstances. The decision of the Appellate Court is final.

Article XI. Community Council Elections

Section 1. Elections for membership on the Community Council will be held on the first Friday of November every two years, not fewer than thirty days before the expiration of the terms of office of the incumbent members of the Community Council.

Section 2. Nomination of Candidates.

Subsection A. Any qualified voter may nominate a candidate for general or special election to the Community Council at the Quarterly Community Meeting immediately preceding the election. Nominated candidates must be in attendance at the nominating meeting and must orally accept the nomination before the meeting is adjourned.

Subsection B. Following the nominating meeting, the Election Clerk will post the names of all nominated candidates, alphabetically, at a location in or outside the Community Center accessible by the public and the list will remain posted at the Community Center (finalized as necessary) through the date of the election.

Section 3. Qualification of Candidates.

Subsection A. Any qualified voter in good standing and properly nominated may be considered eligible for office. "Member in good standing" is defined as a person who has not been convicted in tribal, state, federal, or local court of a felony, or misdemeanor involving fraud, embezzlement, deceit, theft, cheating, or perjury in the preceding five years and is current in all financial obligations to the Community.

Subsection B. To ensure candidates are members in good standing in the Community, every candidate for office must submit and fully cooperate with the Board in obtaining a criminal background check. Failure to cooperate with the requirements of this provision may result in a candidate's disqualification.

Subsection C. No person elected as a Community Council member may be or remain employed by the Community in any other position during his or her term of office.

Section 4. Candidate Challenges. Any qualified voter may challenge the candidacy of any candidate nominated for the Community Council by filing a written statement that must be received by the Board not fewer than 23 days before the election date.

The Board will provide a copy of the written statement within two days of receipt of the challenge to the candidate whose eligibility has been challenged. The challenged candidate may file a written response within five days of receipt of the challenge. The Board will review the applicable Community records and consult with the appropriate Community government staff and Enrollment/Membership Committee members as deemed necessary to make a decision on the candidate's eligibility. The Election Judges must promptly decide whether to uphold the challenge. Should the Election Judges split their vote, the alternate Election Judge shall be allowed to vote. Eligibility decisions of the Election Board are final and not subject to appeal. If a challenge is upheld, the name of the challenged person shall not appear on the ballot for such election. The Election Board must notify the challenger and challenged candidate of the decision.

Section 5. Community Council Election Ballots. The Board will prepare the Community Council election ballots in accordance with Article V. The names of the certified candidates will be listed on the ballot in alphabetical order and the ballot must contain the following instructions:

“You must vote for (*number of positions up for election*) candidates for Community Council. Place an “X” by the name of each person you wish to vote for. You may not give any candidate more than one vote. Votes for write-in candidates are not allowed. Any ballot with a write-in vote will constitute a spoiled ballot. Any ballot with more than (*number of positions up for election*) total votes will constitute a spoiled ballot. Any ballot with fewer than (*number of positions up for election*) total votes will constitute a spoiled ballot. If you need assistance, the Election Board members will help you.”

Section 6. Candidate Poll Watchers. Each candidate for election to the Community Council may designate in writing one qualified voter to act as a poll watcher. The Board will provide each duly appointed poll watcher a copy of the list of qualified voters at the time the Poll opens. A poll watcher must silently observe the conduct of the election and the counting of the ballots or any recounts. Should a poll watcher in any way attempt to influence any qualified voter or in any way interfere with the election process, he or she will be removed and barred by the Board from the Poll and, in the Board's discretion.

Section 7. Winners of Elections. The winners of Community Council elections will be those five persons who receive the highest number of votes. In the event of a tie for the last position, the winner will be decided by a runoff election to be held within 14 days of the election. The term of office for newly elected Community Council members will begin no later than 8:30 a.m. on the thirty-first day following the election.

Section 8. Official Oath of Office. At the beginning of the newly elected Community

Council's term, the newly elected Community Council members will gather together for the administration of the official oath of office by any officer qualified to administer oaths. If, for any reason, any newly elected Community Council members are not present at the initial administration of the official oath of office, those Community Council members may have the oath administered as soon as possible. The official oath of office is as follows:

“I, _____, do solemnly swear that I will uphold the Constitution and Bylaws of the Prairie Island Indian Community in the State of Minnesota, that I will serve the Tribe to the best of my ability, that I will work for the entire membership of the Prairie Island Indian Community, that I will responsibly represent the Prairie Island Indian Community, that I will carry out the directions of the Community Council, that I will declare when a conflict of interest could affect the performance of my duties on behalf of the Tribe, and that I will perform all duties required of me by the Constitution and Bylaws of the Prairie Island Indian Community in the State of Minnesota.”

Section 9. Election of Council Officers. Immediately after all Community Council members having taken the oath of office, the Community Council members will, in executive session, decide among themselves who shall serve as President, Vice-President, Treasurer, Secretary, and Assistant Secretary/Treasurer of the Community Council. The vote for such officers will be announced in open session of the Community Council before adjournment.

Article XII. Referendum Elections

Section 1. Community Council Referendums. The Community Council may submit any proposed ordinance or resolution to a popular referendum.

Subsection A. The Community Council, by a majority of a quorum, will adopt a resolution setting forth the proposed ordinance or action to be considered, and certify the same for a referendum election. The resolution must also include the date of the referendum election and the wording of the referendum question(s) on the ballot.

Subsection B. Any proposed ordinance or action submitted for referendum by the Community Council and validly approved at a referendum election is effective upon the date of the referendum election or on the date provided in such ordinance or the resolution, whichever is later.

Section 2. Community Member Referendums.

Subsection A. Any Community member may call for a referendum vote on the exercise of any constitutionally enumerated power of the Community Council. Any referendum petition must contain original signatures of not fewer than 25% of the total number of voters in the last regular election and be presented to the Community Council.

Subsection B. The petition submitted must be in substantially the following form:

“We, the undersigned qualified voters of the Community, request a referendum on (name of ordinance and number of resolution enacting ordinance, or number of ordinance or number of resolution) enacted by the Community Council on (date of enactment).”

Subsection C. The petition must contain the name and residence address of the person circulating the petition. The petition must also include the name and residence address of each signatory in legible form. The petition submitted must contain original signatures with no copies, duplications, or facsimiles. The signature of each individual signing the petition must be notarized by a valid notary.

Subsection D. The petition must be received at the Administration Building, 5636 Sturgeon Lake Road, Welch, Minnesota 55089, within 30 calendar days from the date the Community sends Community members notice of enactment of the ordinance or resolution that is the subject of the petition. If that date falls on a non-business day, the deadline is the next business day. This requirement regarding date of delivery is mandatory and jurisdictional.

Subsection E. Within five business days after receipt of the original signed petition, the Secretary of the Community Council will verify the voter signatures against a list of qualified voters from the Enrollment Clerk to determine whether the petition contains the requisite number of valid, notarized signatures. The Secretary of the Community Council will report to the Community Council on the matter at its next regular meeting or a special meeting called for that purpose.

Subsection F. If the required valid signatures appear on the petition, the Community Council will certify by resolution the same for a referendum election and notify petitioner within five business days.

Section 3. The Community Council may, in its sole discretion, suspend the ordinance or resolution that is the subject of a referendum petition pending the referendum election. If the Council does not act affirmatively to suspend such ordinance or resolution, it shall continue in effect during the pendency of the referendum election.

Section 4. Referendum Election Board.

Subsection A. In conjunction with certification of a Community-member petition for referendum or a Community-Council-initiated referendum, the Community Council will appoint referendum Election Board officers as set forth in Article IV.

Subsection B. Within five days after the Community Council appoints the referendum Election Board (“Board”), the Board must hold the first meeting.

Section 5. The Community Council will establish the date for the referendum election (“Referendum Election Day”). In no event may the Referendum Election Day take place more than 90 days from the Community Council referendum resolution (Article XII(1)) or the receipt of a Community-member petition for referendum (Article XII(2)(D)).

Section 6. Referendum Election Process.

Subsection A. The Board will run the referendum election consistent with Articles VII and VIII of this Ordinance, however, to the extent there are any conflicts between this Article XII and either Articles VII or VIII, this Article XII shall govern the conduct of a referendum election.

Subsection B. The Board will obtain from the Enrollment Clerk a list of qualified voters, and no later than 70 days before the Referendum Election Day the Board will post the list of qualified voters at the Community Center.

Subsection C. A Community member may challenge the inclusion, exclusion, or omission of a name on the qualified voter list by submitting it in writing to the Board by the deadline established by the Board. The challenge must include the name of the affected individual(s), the reason why the individual’s name should be added or removed and any supporting documentation. The Board will decide the challenge and make a decision whether to include or remove the name at issue within three business days of the challenge deadline.

Subsection D. The Board will prepare the official referendum ballot. The Board will develop a short, objective explanatory statement of the referendum question and place such statement directly on the referendum ballot. The referendum question on the referendum ballot will be worded substantially as follows:

“Do you approve or disapprove of (*name of ordinance or number of resolution*)?”

_____ Approve _____ Disapprove”

Subsection E. No later than 40 days before the Referendum Election Day, the Board will send to all qualified voters a referendum packet, which will contain:

1. A cover letter;
2. A sample of the official referendum ballot and explanatory statement;
3. A copy of the resolution or ordinance being voted on;
4. An Absentee Ballot Request Application Form and self-addressed return enveloped; and
5. Supplemental information as deemed necessary by the Board in order to inform the voters on the decision at issue;

Subsection F.

1. For absentee voting on referendum elections, the Board will follow the timelines and procedures set forth in Article VIII.
2. For walk-in voting on referendum elections, the Board will follow the timelines and procedures set forth at Article VII.
3. The Board will follow the same vote-counting procedures set forth at Article VII(4) and (5) for walk-in voting and Article VII(6) for absentee voting.

Subsection G. After the deadline established for receiving all ballots on the Referendum Election Day has passed, the ballots will be counted by the Board and up to two poll watchers appointed by the petitioner. The Board must count the number of ballots cast, and subtract any spoiled ballots, to determine total voter participation.

Subsection H. The Board must take the total voter participation and divide it by the total number of qualified voters. This total is used to determine whether the percentage of qualified voters who cast votes totals is at least 30%.

Subsection I. In the event that less than 30% of qualified voters cast valid ballots in the referendum election, the election will be null and void, of no consequence or effect, and no vote count shall be issued. The results of any referendum election in which at least 30% of qualified voters did cast valid ballots, the determination is binding and conclusive upon the Community

Council and the Community and the vote count and issue result shall be issued.

Subsection J. Once the count is final, the Election Judges must certify the election results within 24 hours, which will then be posted at the Community Center and Administration Building, and/or any other location or outlet that the Board designates. The original certification must be given to the Community Council with a copy to the Appellate Court. If the Election Judges fail to certify the election or recount within 24 hours, the Appellate Court will certify the election results from the records of the Board.

Section 7. Any member of the Community may contest the results of a referendum election or seek a vote recount in the same manner as provided in Article X.

Section 8. The effective date of the results of a valid referendum election will be upon the expiration of the period for filing an election contest, or, if a challenge is filed, upon the final disposition of the challenge by the Appellate Court.

Section 9. Any enacted ordinance or resolution disapproved by Community members through a referendum election is repealed effective upon the certification of the results of the referendum election by the Board and the recount or challenge deadline has passed, or if there is a challenge or recount as provided in Article X of this Ordinance, the date of the pronouncement of the decision on any election challenge or recount by the Board or the Appellate Court.

Article XIII. Elections to Amend Constitution

As long as it is required by the Community's Constitution, Secretarial elections concerning amendments to the Constitution will be conducted as provided by federal law and under the direction and authorization of the Secretary of the Interior or his or her designated representative. The rules set forth in this Ordinance for the manner and conduct of elections do not apply to Secretarial elections unless authorized and adopted, in total or in any part, for use in the Secretarial election by the Secretary of the Interior or his or her designated representative. Should the Community ever vote to amend the Constitution to remove the Secretarial election requirement, the Community will vote on proposed amendments to the Constitution pursuant to the referendum election procedure set forth in this Ordinance.

Article XIV. Repeal of Prior Election and Referendum Ordinances and Resolutions

All previously enacted ordinances and resolutions concerning the date and manner of elections are hereby repealed, including but not limited to ordinances and resolutions concerning Community Council elections and referendum elections.

Article XV. Severability

Should a court of competent jurisdiction find any provision or provisions of this ordinance to be invalid or illegal under applicable federal or Community law, such provision or provisions will be severed from this ordinance and the remaining provisions remain unaffected and in full force and effect.