



Prairie Island Indian Community
Election Ordinance¹
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¹ Notes of Adoption and Amendment: The Community Council adopted this Ordinance on December 13, 1983, by Resolution Number 45-83. It repealed and replaced the Ordinance on August 25, 1995, by Resolution Number 95-8-25-87, and made technical changes to the replacement Ordinance on October 13, 1995, by Resolution Number 95-10-13-107. It again repealed and replaced the ordinance on April 4, 2007, by Resolution Number 07-04-04-43, and on February 8, 2017, by Resolution Number 17-02-08-16. The Community Council again repealed and replaced this Ordinance on April 12, 2023, by Resolution Number 23-4-12-71, to make substantive changes to the Ordinance, to increase the usability of this ordinance and of tribal law, and to add Notes of Amendment summarizing the legislative history of this Ordinance. The Notes of Amendment are for convenience only and should not be relied on as mandatory authority. The 2023 restatement acted on the recommendations of a review committee, updated timing references, added headings for ease of use, and included notes of other non-technical changes to the Ordinance as Notes of Amendment.

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Section 1. Short Title.² This Ordinance shall be known and may be cited as the Prairie Island Indian Community Election Ordinance.

Section 2. Statement of Purpose, Findings, and Authority.³

- a. Purpose. This Ordinance establishes a comprehensive election ordinance governing the conduct of elections pursuant to 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”).
- b. Findings.
 1. The Community Council finds that the Constitution provides that the manner and control of elections should be established by ordinance.
 2. The Community Council finds that the Constitution provides for an election board to be constituted to oversee and implement elections and the provisions of the election ordinance.
- c. 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).

Section 3. Definitions.⁴

- a. “Appellate Court” means the Appellate Court of the Prairie Island Mdewakanton Dakota Community Tribal Court.
- b. “Business Day” means weekdays from 8:30 a.m. to 5:00 p.m. excluding Saturdays, Sundays, and holidays on which the Administration Building of the Prairie Island Indian Community is not open.
- c. “Community” means the Prairie Island Indian Community in the State of Minnesota, a federally recognized Indian Tribe.
- d. “Community Center” means the Community Center located on the Prairie Island Indian Community Reservation.
- e. “Community Council” means the constitutionally authorized governing body of the Community, also referred to as the “Tribal Council.”

² Note of Amendment: The Community Council added this Short Title Section on April 12, 2023, by Resolution Number 23-4-12-71__.

³ Note of Amendment: The Community Council added this Statement of Purpose, Findings, and Authority Section on April 12, 2023, by Resolution Number 23-4-12-71, to centralize and clarify this Ordinance’s purpose, findings, and authority.

⁴ Note of Amendment: The Community Council added this Definitions Section on April 12, 2023, by Resolution Number 23-4-12-71.

- f. “Community Member” or “Member” means an enrolled member of the Prairie Island Indian Community.
- g. “Poll” means the location where voting in the election is conducted, which is the Prairie Island Community Center located at: 1158 Island Boulevard, Welch, Minnesota (“Community Center”), or other location as designated by the Election Board.
- h. “Qualified Voter” means any individual who is a Community Member and who will be 18 years of age or older by the date of the next scheduled election.⁵
- i. “Referendum Election” means a vote held on any proposed ordinance, resolution, or exercise by the Community Council of any enumerated power, if certified by the Community Council for referendum election or referred for a vote by members of the Community, as provided for in Article VIII of the Constitution and Section 15 below.
- j. “Secretarial Election” means an election called by the Secretary of the United States Department of the Interior for the purposes of amending the Constitution and By-Laws of the Community which will be held pursuant to the Federal Regulations found at 80 F.R. 63094 (October 19, 2015), as provided for in Article XIII of the Constitution and Section 16 below.
- k. “Special Election” means an election held during the term of the sitting Community Council for the purposes of filling a vacancy on the Community Council, as provided for in Article VII, Section 2 of the Constitution and Section 14 below.
- l. “Tribal Court” means the Prairie Island Mdewakanton Dakota Community Tribal Court.

Section 4. Applicability.⁶ This Ordinance shall apply to all elections for the selection of the Community Council pursuant to Article VI the Constitution, Special Elections pursuant to Article VII of the Constitution, Referendum Elections pursuant to Article VIII of the Constitution, Secretarial Elections pursuant to Article XIII of the Constitution, and other elections including but not limited to special and run-off elections as provided by the Constitution.

Section 5. Qualified Voter and Voter Responsibilities.⁷ A Qualified Voter has the right to vote in any election. 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

⁵ Note of Amendment: The Community Council amended an earlier definition of Qualified Voter on October 3, 1997, by Resolution Number 97-10-3-107, to lower the age-qualification for voters and the Election Board to 18 years of age.

⁶ Note of Amendment: The Community Council added this Applicability Section on April 12, 2023, by Resolution Number 23-4-12-71.

⁷ Note of Amendment: The Community Council amended this subsection on April 12, 2023, by Resolution Number 23-4-12-71 to specify that it is the responsibility of the Qualified Voter and the person voting on their behalf to prove the proxy’s qualification to cast a vote on behalf of the Qualified Voter.

notify the Election Board immediately of any change of address. It is also the responsibility of the Qualified Voter and anyone authorized to legally act on behalf of the Qualified Voter in voting to provide documentation of that authority.

Section 6. The Election Board (the “Board”).

- a. Board Officers. The Board will consist of two election judges and two election clerks, appointed by the Community Council. The Community 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.
- b. 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.
- c. Appointment and Terms of Office. The Community Council will appoint the Board and alternates before each election.
 1. For Community Council elections, the Community Council will appoint Board members at the conclusion of the July Quarterly Community meeting before the general election.
 2. For special elections, the Community Council will appoint Board members by resolution calling for a special election to fill a Community Council vacancy.
 3. 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.
 4. 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.
 5. A Board member’s term ends when the election results of the election for which they were appointed are certified as set forth at Section 11 or declared final under Section 12.
 6. 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.
- d. Disqualifications 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 subsection (b) of this Section, 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.

- e. Oath.⁸ Upon appointment to the Board or as an alternate, each Board member must sign an oath that becomes part of the election records stating as follows: I do solemnly swear that I will serve according to the best of my ability and shall make every effort to prevent fraud or abuse of the election process. I will uphold the Prairie Island Indian Community Election Ordinance and the Constitution and By-Laws of the Prairie Island Indian Community in the State of Minnesota. I will work for the entire membership of the Prairie Island Indian Community, and that I will declare when a conflict of interest could affect the performance of my duties on behalf of the Tribe. I understand that failure to perform the Board Member duties set forth in the Election Ordinance may result in my removal from the Board.
- f. Duties.⁹ 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 subsection (c)(6) of this Section.
 - 1. The Election Judges (“Judge(s)”) will:
 - A. Oversee the entire election process and ensure compliance with the Constitution and this Ordinance;
 - B. Promptly decide any challenges made to voter eligibility, candidate eligibility, election procedures, and recounts as authorized by Section 12;
 - C. Obtain criminal background checks on all candidates for Community Council as set forth at Section 13(c);
 - D. One Judge, along with one Clerk, and an officer of the Prairie Island Police Department will pick up absentee ballots from the secured location, as indicated in the absentee ballot packet, designated by the Election Board.

⁸ Note of Amendment: The Community Council amended this subsection on April 12, 2023, by Resolution Number 23-4-12-71, to include the text of the necessary oath.

⁹ Note of Amendment: The Community Council amended this subsection of the Ordinance on October 3, 1997, by Resolution Number 97-10-3-107, to clarify treatment of spoiled and absentee ballots, place Qualified Voters on notice that they must notify the Election Board of any address changes, and allow the Election Board to consult with appropriate tribal government staff and Enrollment Committee member(s) to resolve candidate challenges. The Community Council further amended this subsection on April 12, 2023, by Resolution Number 23-4-12-71, to update the statutory procedures to collect absentee ballots and to identify and decide whether to count spoiled ballots.

Absentee ballots will be collected at the latest time allowable by the location but no later than the close of the Poll on Election Day and promptly delivered to the Poll location for counting;

- E. Along with the Clerks and alternate members of the Board, determine whether a ballot marked “spoiled” should be counted;
 - F. Count the ballots cast at an election;
 - G. Conduct any necessary recounts;
 - H. Certify the results of the election as required by Section 11; and
 - I. Notify the Community Council and the Chief Judge of the Appellate Court of the results of the election.
2. The Election Clerks (“Clerk(s)”) will:
- A. Obtain a list of nominated candidates from the Community Council Secretary;
 - B. Print or have printed ballots with the candidates listed alphabetically;
 - C. 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;
 - D. Print or have printed the cover sheets to be affixed to spoiled ballots;
 - E. Acquire a list of Qualified Voters from the Enrollment Clerk and post at the Community Center by the last Tuesday of July;
 - F. Set up and supervise the Poll on election day;
 - G. Obtain an address and keys for the absentee ballot box location as designated by the Board to be used exclusively for absentee ballots;
 - H. One Clerk, along with one Judge, and an officer of the Prairie Island Police Department will pick up absentee ballots from the secured location, as indicated in the absentee ballot packet, designated by the Election Board. Absentee ballots will be collected at the latest time allowable by the location but no later than the close of the Poll on Election Day and promptly delivered to the Poll location for counting;
 - I. Along with the Judges and alternate members of the Board, determine whether a ballot marked “spoiled” should be counted;
 - J. Assist the Election Judges in counting the ballots;
 - K. Ensure that all necessary supplies for the election are available; and
 - L. Maintain a list of absentee voters.

3. The Alternate Election Judge (“Alternate Judge”) will:
 - A. Attend all meetings of the Board;
 - B. Have knowledge of the duties and responsibilities of an Election Judge;
 - C. 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; and
 - D. Along with the Judges, Clerks, and Alternate Clerk, determine whether a ballot marked “spoiled” should be counted.
4. The Alternate Election Clerk (“Alternate Clerk”) will:
 - A. Attend all meetings of the Board;
 - B. Have knowledge of the duties and responsibilities of an Election Clerk;
 - C. 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; and
 - D. Along with the Judges, Clerks, and Alternate Judge, determine whether a ballot marked “spoiled” should be counted.

Section 7. Official Election Ballots.

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

Section 8. Official Election Ballot Boxes.

- a. There will be an official poll ballot box (“Walk-in Ballot Box”) for poll votes.
- b. There will be an official absentee ballot box (“Absentee Ballot Box”) for absentee votes.
- c. There will be an official spoiled ballot box (“Spoiled Ballot Box”) for void and spoiled ballots.

Section 9. Poll Voting Procedures.¹⁰

- a. 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.
- b. 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 designated by the voter upon the voter's request, in the locked Walk-in Ballot Box.
- c. 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. That Board member will affix a cover sheet to the spoiled ballot indicating why the ballot is "spoiled" and placed it in the Spoiled Ballot Box.
- d. All spoiled ballots, whether cast absentee or in-person, are separately retained by the Board, affixed with a cover sheet indicating why the ballot is spoiled, and placed in the Spoiled Ballot Box. Immediately after the Poll closes and before counting the votes, the Election Board, including alternate members, will first determine whether any of the spoiled ballots should be counted by conducting its own vote to "accept" or "reject" the ballot, or abstain from the vote. The Election Board must maintain a record of its vote attached to the ballot. The cover sheet attached to a spoiled ballot must have the following language:

¹⁰ Note of Amendment: The Community Council amended this subsection on April 12, 2023, by Resolution Number 23-4-12-71, to specify the process and acceptable reasons to spoil ballots.

“This ballot is marked “spoiled” for the following reason:

1. Votes were not cast for five candidates
2. Voter signature is illegible
3. Ballot has markings other than votes
4. Absentee ballot was not placed in the envelop(s) as instructed
5. Voter did not provide the proper proof of guardianship, conservatorship, power of attorney, or other legal documentation evidencing the right of a person other than the voter to act on behalf of the voter in this election
6. Ballot does not have the signature of a witness or notary as instructed
7. Late Received Non-Counted Ballot
8. Hand-Delivered Void Non-Counted Absentee Ballot
9. Other:

By their initials below, each member and alternate member of the Election Board votes as follows:

	Accept	Reject	Abstain
[Name of Judge]			
[Name of Judge]			
[Name of Election Clerk]			
[Name of Election Clerk]			
[Name of Alternate Judge]			
[Name of Alternate Clerk]			

This cover sheet shall remain affixed to the ballot and become a record of this election.”

- e. A ballot will not be considered spoiled because the voter failed to properly mark the ballot if, in the opinion of the Election Board, the voter’s intent can be clearly determined from the mark made by the voter. If the Election Board votes to accept the ballot, it shall be placed in the “Walk-In Ballot Box” or “Absentee Ballot Box,” consistent with the voter’s method of voting. If the Election Board votes to reject the ballot, it shall be placed in the “Spoiled Ballot Box.”
- f. 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 first vote on the spoiled ballots, to determine whether any of the spoiled ballots should be included in the vote count. 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 Section 12, the Board will certify the election and deliver the final results

to the Community Council and the Appellate Court within one (1) Business Day of the posting of the preliminary results of the election.

- g. 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 Resort & Casino vault by two (2) members of the Board. 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.¹¹

Section 10. Absentee Voting.¹²

- a. Under the Community's Constitution, absentee voting is permitted.
- b. After the Community Council nomination meeting, the Board will first acquire the Qualified Voters list and then before the first Tuesday in August 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 may, in its discretion, elect to make available, send, and/or receive Absentee Ballot Request Application Forms through electronic means, including but not limited to email or a website. Regardless of delivery method, the Board must *receive* the request **BEFORE** the start of business on the first Tuesday in September. **The Board will not process any Absentee Ballot Request Application Form (or other request for an absentee ballot) if received after the first Tuesday in September.**
- c. Upon receipt of a properly completed and signed Absentee Ballot Request Application Form, the Board shall mail the voter, no later than the Wednesday after the first Tuesday of September, 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 Section 7(b), 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.

¹¹ Note of Amendment: The Community Council amended this subsection on April 12, 2023, by Resolution Number 23-4-12-71, to require two Election Board members to place the ballot box in the vault.

¹² Note of Amendment: The Community Council amended this Section on April 12, 2023, by Resolution Number 23-4-12-71, to update the statutory procedures to issue and collect absentee ballots.

- d. 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.
- e. Absentee ballots must be in the designated box no later than the close of the Poll, or one hour before the close of business where the absentee ballot box is located, at which time, the ballots will be picked up by the Board. Ballots received after the close of the Poll 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.
- f. The completion and handling of absentee ballots shall conform to the following:
 - 1. 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 delivered to the address indicated in the absentee ballot packet.
 - 2. The absentee ballots will remain stored at the designated address or locked in the absentee ballot box with the Election Board until collected by two Board members at the close of the Poll on election day.
 - 3. 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.
- g. 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.

- h. 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.

Section 11. 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 one (1) Business Day, the Appellate Court will certify the election results from the records of the Board.

Section 12. Election Challenges and Recounts.

- a. 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 one (1) Business Day after the Board has certified the results of the election, or by the Appellate Court within one (1) Business Day after the Appellate Court has certified the results of the election under Section 11. 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.
- b. Judicial Challenge.
 1. 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 two (2) Business Days of the certification of any election or recount, file a written complaint in the Appellate Court. The Appellate Court must hold a hearing within three (3) Business Days of the filing of the complaint.
 2. Within one (1) Business Day of the filing of the complaint, the complainant must deliver or have delivered copies of the complaint to:
 - A. Any individual alleged to have committed or allowed the extreme irregularity, alleged fraud, or alleged misconduct; and
 - B. 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).

3. 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:
 - A. order a new Community Council election to be conducted within 21 days of its order, or within 60 days for a referendum election;
 - B. disqualify candidates from the election;
 - C. certify the election results; or
 - D. 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.

Section 13. Community Council Elections.

- a. Timing. Elections for membership on the Community Council will be held on the first Tuesday after the October Quarterly Community meeting every two years, not fewer than thirty days before the expiration of the terms of office of the incumbent members of the Community Council.
- b. Nomination of Candidates.¹³
 1. Any Qualified Voter may nominate a candidate for general election to the Community Council at the July Quarterly Community meeting preceding the election. Nominated candidates must be in attendance at the nominating meeting and must orally accept the nomination before the meeting is adjourned.
 2. 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.
- c. Qualifications of Candidates.¹⁴
 1. Any Qualified Voter is 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.
 2. 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

¹³ Note of Amendment: The Community Council amended this subsection on April 12, 2023, by Resolution Number 23-4-12-71, to move all procedures concerning special elections to Section 14.

¹⁴ Note of Amendment: The Community Council amended this subsection on December 8, 1989, by Resolution Number 89-78, to further define candidate eligibility.

criminal background check. Failure to cooperate with the requirements of this provision may result in a candidate's disqualification.

3. 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.
- d. 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 by the first Tuesday in August. The Board will provide a copy of the written statement within two (2) Business Days of receipt of the challenge to the candidate whose eligibility has been challenged. The challenged candidate may file a written response within five (5) Business 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 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 Board must notify the challenger and challenged candidate of the decision.
- e. Community Council Election Ballots.¹⁵ The Board will prepare the Community Council election ballots in accordance with Section 7. 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 a mark within the box 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.”
- f. 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

¹⁵ Note of Amendment: The Community Council amended this subsection on April 12, 2023, by Resolution Number 23-4-12-71, to codify *Dennis Childs v. Prairie Island Election Board*, CA-03-03 (Prairie Island Mdewankanton Dakota Community Court of Appeals Nov. 17, 2003).

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, in the Board's discretion.

- g. 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 on the first Tuesday in November. The term of office for newly elected Community Council members will begin on the second Tuesday in December following the election.
- h. 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.”
- i. Election of Council Officers. Immediately after all Community Council members have 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.

Section 14. Special Elections to Fill a Vacancy on the Community Council.¹⁶

- a. Resolution for Special Election. In the event of a vacancy on the Community Council during its two-year term, the Community Council shall call for a Special Election by resolution which shall include:

¹⁶ Note of Amendment: The Community Council added this Special Elections to Fill a Vacancy on the Community Council Section on April 12, 2023, by Resolution Number 23-4-12-71, to operate as a stand-alone section governing special elections.

1. The reason for the vacancy as follows:
 - A. Removal of a sitting Community Council member by order of the Tribal Court due to misconduct and neglect of duty pursuant to Article VII, Section 1 of the Constitution; or
 - B. Death, removal from the Community, resignation, or conviction of a felony or misdemeanor involving dishonesty of any member of the Community Council;
 2. The date of the Special Election;
 3. The date of the meeting where candidates for the Community Council Special Election will be nominated; and
 4. Appointment of the Election Board officers.
- b. Timing. The remaining Community Council will establish the date for the Special Election. In no event may the Special Election be held within ninety (90) days of a regularly held election for Community Council under Section 13. If a vacancy occurs within ninety (90) days of a regularly held election under Section 13, the Community Council may make an appointment to fill the vacancy pursuant to Article VII, Section 2 of the Constitution.
- c. Special Election Board.
1. The Community Council will appoint referendum Election Board officers as provided in subsection (a)(4) above.
 2. Within five (5) Business Days after the Community Council appoints the Special Election Board (“Board”), the Board must hold the first meeting.
 3. Disqualifications 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, the Board member will be disqualified from serving in the Special 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 subsection, an immediate family member is defined as a full sibling, half-blood sibling, step-sibling, parent, step-parent, child, step-child, or spouse.
 4. 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 as follows: I do solemnly swear that I will serve according to the best of my ability and shall make every effort to prevent fraud or abuse of the election process. I will uphold the Prairie Island Indian Community Election Ordinance and the Constitution and By-Laws of the Prairie Island Indian Community in the State of Minnesota. I will work for the entire membership of the Prairie Island Indian Community, and that I will declare when a conflict of interest could affect the performance of my duties on behalf of the Tribe. I understand that failure to perform the Board Member

duties set forth in the Election Ordinance may result in my removal from the Board.

5. Duties. The Board will perform all duties set forth in this Ordinance and Article VI, Section 2 (Elections) 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. 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.

A. The Election Judges (“Judge(s)”) will:

- i. Oversee the entire election process and ensure compliance with the Constitution and this Ordinance;
- ii. Promptly decide any challenges made to voter eligibility, candidate eligibility, election procedures, and recounts as authorized by subsection 14(k)(1) of this Section;
- iii. Obtain criminal background checks on all candidates for Community Council;
- iv. One Judge, along with one Clerk, and an officer of the Prairie Island Police Department will pick up absentee ballots from the secured location, as indicated in the absentee ballot packet, designated by the Election Board. Absentee ballots will be collected at the latest time allowable by the location but no later than the close of the Poll on the day of the Special Election and promptly delivered to the Poll location for counting;
- v. Along with the Clerks and alternate members of the Board, determined whether a ballot marked “spoiled” should be counted;
- vi. Count the ballots cast at the Special Election;
- vii. Conduct any necessary recounts;
- viii. Certify the results of the Special Election within 24 hours of the posting of the results of the Special Election or recount, and deliver the original certification to the Community Council with a copy to the Appellate Court; and
- ix. Notify the Community Council and the Chief Judge of the Appellate Court of the results of the Special Election.

B. The Election Clerks (“Clerk(s)”) will:

- i. Obtain a list of nominated candidates from the Community Council Secretary;
- ii. Print or have printed ballots with the candidates listed alphabetically;

- iii. 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;
- iv. Print or have printed the cover sheets to be affixed to spoiled ballots;
- v. Acquire a list of Qualified Voters from the Enrollment Clerk and post at the Community Center no later than 21 days before the Special Election;
- vi. Set up and supervise the Poll on the Special Election day;
- vii. Obtain an address and keys for the absentee ballot box location as designated by the Board to be used exclusively for Absentee Ballots;
- viii. One Clerk, along with one Judge, and an officer of the Prairie Island Police Department will pick up absentee ballots from the secured location, as indicated in the absentee ballot packet, designated by the Election Board. Absentee ballots will be collected at the latest time allowable by the location but no later than the close of the Poll on the day of the Special Election and promptly delivered to the Poll location for counting;
- ix. Along with the Judges and alternate members of the Board, determined whether a ballot marked “spoiled” should be counted;
- x. Assist the Election Judges in counting the ballots;
- xi. Ensure that all necessary supplies for the Special Election are available;
and
- xii. Maintain a list of absentee voters.

d. Nomination of Candidates.

- 1. Any Qualified Voter may nominate a candidate for Special Election to the Community Council at the Community meeting where nominations are made. Nominated candidates must be in attendance at the nominating meeting and must orally accept the nomination before the meeting is adjourned.
- 2. 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 Special Election.

e. Qualifications of Candidates.

- 1. Except for Community Council members removed pursuant to Article VII, Section 1 of the Constitution, all other removed Community Council members and any other 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.

2. 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.
 3. 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.
- f. Candidate Challenges. Any Qualified Voter may challenge the candidacy of any candidate nominated for the Community Council in the Special Election by filing a written statement that must be received by the Board not fewer than 23 days before the Special Election date. The Board will provide a copy of the written statement within two (2) Business Days of receipt of the challenge to the candidate whose eligibility has been challenged. The challenged candidate may file a written response within five (5) Business 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 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 the Special Election. The Board must notify the challenger and challenged candidate of the decision.
- g. Special Election Ballots. The Board will prepare the Special Election ballots including the Official Poll Ballots, Absentee Ballots, and Sample Poll Ballots and Sample Absentee Ballots. 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 a mark within the box 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.”

h. Absentee Voting.

1. Under the Community's Constitution, absentee voting is allowed.
2. Within five (5) Business Days after the Special Election 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 may, in its discretion, elect to make available, send, and/or receive Absentee Ballot Request Application Forms through electronic means, including but not limited to email or a website. Regardless of delivery method, the Board must *receive* the request **no later than 4:00 p.m., 11 days before the Special 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 Special Election.**
3. Upon receipt of a properly completed and signed Absentee Ballot Request Application Form, the Board shall mail the voter, within three (3) Business 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 printed on colored paper of a different color than the Official Poll Ballots with black ink, 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.
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.
5. Absentee ballots must be in the designated box no later than the close of the Poll, or one hour before the close of business where the absentee ballot box is located, at which time, the ballots will be picked up by the Board. Ballots received after the close of the Poll 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.

i. Polling Voting Procedures.

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 the Special 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.

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 designated by the voter upon the voter's request, in the locked Walk-in Ballot Box.
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. That Board member will affix a cover sheet to the spoiled ballot indicating why the ballot is "spoiled" and placed it in the Spoiled Ballot Box.
4. All spoiled ballots, whether cast absentee or in-person, are separately retained by the Board, affixed with a cover sheet indicating why the ballot is spoiled, and placed in the Spoiled Ballot Box. Immediately after the Poll closes and before counting the votes, the Election Board including alternate members will first determine whether any of the spoiled ballots should be counted by conducting its own vote to "accept" or "reject" the ballot, or abstain from the vote. The Election Board must maintain a record of its vote attached to the ballot. The cover sheet attached to a spoiled ballot must have the following language:
 1. Votes were not cast for five candidates
 2. Voter signature is illegible
 3. Ballot has markings other than votes
 4. Absentee Ballot was not placed in the envelop(s) as instructed
 5. Voter did not provide the proper proof of guardianship, conservatorship, power of attorney, or other legal documentation evidencing the right of a person other than the voter to act on behalf of the voter in this election
 6. Ballot does not have the signature of a witness or notary as instructed
 7. Late Received Non-Counted Ballot

8. Hand-Delivered Void Non-Counted Absentee Ballot

9. Other:

By their initials below, each member and alternate member of the Election Board votes as follows:

	Accept	Reject	Abstain
[Name of Judge]			
[Name of Judge]			
[Name of Clerk]			
[Name of Clerk]			
[Name of Alternate Judge]			
[Name of Alternate Clerk]			

This cover sheet shall remain affixed to the ballot and become a record of this election.”

A ballot will not be considered spoiled because the voter failed to properly mark the ballot if, in the opinion of the Election Board, the voter’s intent can be clearly determined from the mark made by the voter. If the Election Board votes to accept the ballot, it shall be placed in the “Walk-In Ballot Box” or “Absentee Ballot Box,” consistent with the voters’ method of voting. If the Election Board votes to reject the ballot, it shall be placed in the “Spoiled Ballot Box.”

5. 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 first vote on the spoiled ballots, to determine whether any of the spoiled ballots should be included in the vote count. The Board will then immediately count the votes cast and post the preliminary results of the Special 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 subsection (k) of this Section, the Board will certify the Special Election and deliver the final results to the Community Council and the Appellate Court within one (1) Business Day of the posting of the preliminary results of the Special Election.
6. 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 Resort & Casino vault by two (2) members of the Board. 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 regularly held election. At the next

general election, the Board will remove the ballot boxes from the vault and the ballots will be stored by the Legal Department.

j. Official Special Election Ballot Boxes.

1. There will be an official poll ballot box (“Walk-in Ballot Box”) for poll votes.
2. There will be an official absentee ballot box (“Absentee Ballot Box”) for absentee votes.
3. There will be an official spoiled ballot box (“Spoiled Ballot Box”) for void and spoiled ballots.

k. Special Election Challenges and Recounts.

1. Recounts. Any candidate in the Special Election may request a recount by written request to the Board. Any request for recount must be received by the Board within one (1) Business Day after the Board has certified the results of the Special Election, or by the Appellate Court within one (1) Business Day after the Appellate Court has certified the results of the Special Election by delivering the original certification to the Community Council with a copy to the Appellate Court. 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.
2. Judicial Challenge.
 - A. In the event of alleged extreme irregularity in the Special Election process, alleged fraud in the Special Election process, or alleged misconduct by an individual involved in the Special Election process, the Election Judges or any Qualified Voter in the Community may, within two (2) Business Days of the certification of the Special Election or recount, file a written complaint in the Appellate Court. The Appellate Court must hold a hearing within three (3) Business Days of the filing of the complaint.
 - B. Within one (1) Business Day of the filing of the complaint, the complainant must deliver or have delivered copies of the complaint to:
 - i. any individual alleged to have committed or allowed the extreme irregularity, alleged fraud, or alleged misconduct; and
 - ii. any candidate that may be affected.
 - C. At the hearing, the Appellate Court must accept testimony and other evidence from the Board and other interested parties concerning the Special Election and the complaint. At the conclusion of the hearing, the Appellate Court may:
 - i. order a new Special Election to be conducted within 21 days of its order;
 - ii. disqualify candidates from the Special Election;
 - iii. certify the Special Election results; or

- iv. 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.

Section 15. Referendum Elections.

- a. Community Council Referendums. The Community Council may submit any proposed ordinance or resolution to a popular referendum.
 1. 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, the wording of the referendum question(s) on the ballot, and appointment of the Election Board officers.
 2. 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.
- b. Community Member Referendums.
 1. 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.
 2. 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)*.”
 3. 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.
 4. 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.

5. 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 (5) Business Days.
- c. Discretion to Suspend Pending Referendum. 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.
 - d. Referendum Election Board.
 1. 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 subsection (a)(1) of this Section.
 2. Within five (5) Business Days after the Community Council appoints the Referendum Election Board (“Board”), the Board must hold the first meeting.
 - e. Referendum Election Day. 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 (subsection (a) of this Section) or the receipt of a Community-member petition for referendum (subsection (b)(4) of this Section).
 - f. Referendum Election Process.¹⁷
 1. The Board will run the Referendum Election as follows:
 - A. Polling Vote Procedures:
 - i. 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 the Referendum 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, any designated poll watchers, 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.
 - ii. A Board member must verify a voter’s identity by visual comparison with any form of government-issued photo identification presented by the voter.

¹⁷ Note of Amendment: The Community Council amended this subsection on April 12, 2023, by Resolution Number 23-4-12-71, to delete an internal cross reference and add subsections 1(A), Polling Vote Procedures, and 1(B), Absentee Voting, and their included subsections.

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 designated by the voter upon the voter's request, in the locked Walk-in Ballot Box.

- iii. 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. That Board member will affix a cover sheet to the spoiled ballot indicating why the ballot is "spoiled" and placed it in the Spoiled Ballot Box.
- iv. All spoiled ballots, whether cast absentee or in-person, are separately retained by the Board, affixed with a cover sheet indicating why the ballot is spoiled, and placed in the Spoiled Ballot Box. Immediately after the Poll closes and before counting the votes, the Election Board including alternate members will first determine whether any of the spoiled ballots should be counted by conducting its own vote to "accept" or "reject" the ballot, or abstain from the vote. The Election Board must maintain a record of its vote attached to the ballot. The cover sheet attached to a spoiled ballot must have the following language:

"This ballot is marked "spoiled" for the following reason:

1. Vote was not cast
2. Voter signature is illegible
3. Ballot has markings other than vote
4. Absentee Ballot was not placed in the envelop(s) as instructed
5. Voter did not provide the proper proof of guardianship, conservatorship, power of attorney, or other legal documentation evidencing the right of a person other than the voter to act on behalf of the voter in this election
6. Ballot does not have the signature of a witness or notary as instructed
7. Late Received Non-Counted Ballot

- 8. Hand-Delivered Void Non-Counted Absentee Ballot
- 9. Other:

By their initials below, each member and alternate member of the Election Board votes as follows:

	Accept	Reject	Abstain
[Name of Judge]			
[Name of Judge]			
[Name of Clerk]			
[Name of Clerk]			
[Name of Alternate Judge]			
[Name of Alternate Clerk]			

This cover sheet shall remain affixed to the ballot and become a record of this election.”

A ballot will not be considered spoiled because the voter failed to properly mark the ballot if, in the opinion of the Election Board, the voter’s intent can be clearly determined from the mark made by the voter. If the Election Board votes to accept the ballot, it shall be placed in the “Walk-In Ballot Box” or “Absentee Ballot Box,” consistent with the voters’ method of voting. If the Election Board votes to reject the ballot, it shall be placed in the “Spoiled Ballot Box.”

- v. 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 first vote on the spoiled ballots, to determine whether any of the spoiled ballots should be included in the vote count. The Board will then immediately count the votes cast and post the preliminary results of the Referendum 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 subsection (g) of this Section, the Board will certify the Referendum Election and deliver the final results to the Community Council and the Appellate Court within one (1) Business Day of the posting of the preliminary results of the Referendum Election.
- vi. 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 Resort & Casino vault by two (2) members of the Board. The ballot boxes will remain in the vault until the

period for recount or challenge is expired. Upon the expiration of the period for recount or challenge, the Board will remove the ballot boxes from the vault and the ballots will be stored by the Legal Department.

B. Absentee Voting.

- i. Under the Community's Constitution, absentee voting is allowed.
 - ii. Before the first Tuesday two months before the Referendum Election Day, 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 may, in its discretion, elect to make available, send, and/or receive Absentee Ballot Request Application Forms through electronic means, including but not limited to email or a website. Regardless of delivery method, the Board must *receive* the request **no later than 4:00 p.m. on the first Tuesday one month before the Referendum Election Day. 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. on the first Tuesday one month before the Referendum Election Day.**
 - iii. Upon receipt of a properly completed and signed Absentee Ballot Request Application Form, the Board shall mail the voter, no later than the first Wednesday after the first Tuesday one month before the Referendum Election Day, 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 printed on colored paper of a different color than the Official Poll Ballots with black ink, 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.
 - iv. Absentee ballots must be in the designated box no later than the close of the Poll, or one hour before the close of business where the absentee ballot box is located, at which time, the ballots will be picked up by the Board. Ballots received after the close of the Poll 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.
2. 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.
 3. 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 (3) Business Days of the challenge deadline.

4. 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”

5. Before the first Tuesday two months before the Referendum Election Day, the Board will send to all Qualified Voters a referendum packet, which will contain:
 - A. A cover letter;
 - B. A sample of the official referendum ballot and explanatory statement;
 - C. A copy of the resolution or ordinance being voted on;
 - D. An Absentee Ballot Request Application Form and self- addressed return enveloped; and
 - E. Supplemental information as deemed necessary by the Board in order to inform the voters on the decision at issue;
6. 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.
7. 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%.
8. 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. In any Referendum Election in which at least 30% of Qualified Voters did cast valid ballots, the results are binding and conclusive upon the Community Council and the Community and the vote count and issue result shall be issued.
9. Once the count is final, the Election Judges must certify the election results within one (1) Business Day, 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 one (1) Business Day, the Appellate Court will certify the election results from the records of the Board.

g. Referendum Election Challenges and Recounts.¹⁸

1. Recounts. Any member of the Community may request a recount of the results of a Referendum Election by written request to the Board. Any request for recount must be received by the Board within one (1) Business Day after the Board has certified the results of the Referendum Election, or by the Appellate Court within one (1) Business Day after the Appellate Court has certified the results of the Referendum Election by delivering the original certification to the Community Council with a copy to the Appellate Court. 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.
2. Judicial Challenges.
 - A. In the event of alleged extreme irregularity in the Referendum Election process, alleged fraud in the Referendum Election process, or alleged misconduct by an individual involved in the Referendum Election process, the Election Judges or any Qualified Voter in the Community may, within two (2) Business Days of the certification of the Referendum Election or recount, file a written complaint in the Appellate Court. The Appellate Court must hold a hearing within three (3) Business Days of the filing of the complaint.
 - B. Within one (1) Business Day of the filing of the complaint, the complainant must deliver or have delivered copies of the complaint to any individual alleged to have committed or allowed the extreme irregularity, alleged fraud, or alleged misconduct.
 - C. At the hearing, the Appellate Court must accept testimony and other evidence from the Board and other interested parties concerning the Special Election and the complaint. At the conclusion of the hearing, the Appellate Court may:
 - i. order a new Special Election to be conducted within 21 days of its order;
 - ii. disqualify candidates from the Special Election;
 - iii. certify the Special Election results; or
 - iv. 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.

¹⁸ Note of Amendment: The Community Council amended this subsection on April 12, 2023, by Resolution Number 23-4-12-71, to delete an internal cross reference and add subsections 1, Recounts, and 2, Judicial Challenges, and their included subsections.

- h. Effective Date of Referendum Election. 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.
- i. Effective Date of Repeal. 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 subsection (g) of this Section, the date of the pronouncement of the decision on any election challenge or recount by the Board or the Appellate Court.

Section 16. Elections to Amend the Constitution. As long as it is required by the Community’s Constitution, a Secretarial Election 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 a Secretarial Election 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.

Section 17. Interference with Election Prohibited.¹⁹ Interference with an election, including but not limited to, any conduct which interferes with the ability of a Qualified Voter to participate in the election and vandalizing or otherwise tampering with an election ballot or election ballot box is prohibited. The penalty for a interfering with an election is (1) a civil fine of up to \$5,0000 and restitution for the repair or replacement of any property of the Community that is damaged; or (2) the penalties for such conduct as found in the Prairie Island Indian Community Conduct Ordinance, whichever is greater. The Tribal Court shall have jurisdiction to enforce the provisions and penalties of this Ordinance upon presentation of a complaint by the Community that this Section has been violated. A conviction by the Community for this conduct does not preclude criminal prosecution under the laws of any other jurisdiction, if violated.

Section 18. Records.²⁰ The Election Board and all others involved in the administration of elections under this Ordinance shall maintain records as required by this Ordinance, including the written oaths of the Election Board as required by Section 6(e) and Section 14(c)(4); and the election ballots as required by Section 9(f), Section 14(i)(6), and Section 15(f)(1)(A)(vi).

¹⁹ Note of Amendment: The Community Council added this Interference with an Election Prohibited Section on April 12, 2023, by Resolution Number 23-4-12-71.

²⁰ Note of Amendment: The Community Council added this Records Section on April 12, 2023, by Resolution Number 23-4-12-71.

Section 19. Miscellaneous Provisions.

- a. 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.
- b. Severability.²¹ If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of this Ordinance, or the application of the provision to other persons or circumstances is not affected.
- c. Effective Date.²² This Ordinance shall become effective on April 12, 2023.

²¹ Note of Amendment: The Community Council added this Severability subsection on April 12, 2023, by Resolution Number 23-4-12-71.

²² Note of Amendment: The Community Council added this Effective Date subsection on April 12, 2023, by Resolution Number 23-4-12-71.