

**LOWER SIOUX INDIAN COMMUNITY  
ELECTION ORDINANCE FOR REGULAR ELECTIONS**

**(As amended through 6/22/04 ~~05/18/06~~)**

**Section 1. Purpose.**

The purpose of this Ordinance is to provide for an orderly process for conducting the Regular Elections for Lower Sioux Community Council positions. Regular Elections are those elections scheduled at regular intervals pursuant to the Lower Sioux Community Constitution. This Ordinance is enacted pursuant to the Lower Sioux Community Constitution, which sets the terms of office for Community Council members, and which provides that the Community Council shall by ordinance establish the date and manner of control of elections.

**Section 2. Scheduling of Regular Elections.**

Subd. 1. Regular Elections for Community Council positions shall take place on the first Friday in August of each odd-numbered year, unless the Community Council designates by resolution another day during that week for the election.

Subd. 2. On the day of the Regular Election, polls shall open at 8:00 a.m. and shall close at 8:00 p.m.

**Section 3. Nominations.**

Subd. 1. Nominations for candidates for Community Council positions in the Regular Election shall be made at a general meeting of the Community scheduled for that purpose by the Community Council. The meeting shall be held at least twenty-one days before the day of the election. The Community Council shall announce the meeting at least ten days in advance by posting a public notice at the Community government center and by whatever other means the Community Council deems appropriate.

Subd. 2. Nominations for candidates shall be made from the floor at the meeting required by this section, and every nomination must receive a second in order to be valid. ~~Only Qualified Members of the Community, as defined in the Lower Sioux Community~~

Membership Privilege and Gaming Revenue Allocation ordinance, may become candidates, make nominations, or second nominations.

#### Section 4. Election Procedures.

Subd. 1. Within five days after the meeting of the Community at which nominations for the Regular Election are made, the Community Council shall appoint two election judges and two election clerks. The election judges and election clerks shall be Qualified Members of the Community, and shall not be members of immediate family of any nominee in the Regular Election. "Immediate family" shall mean father, mother, son, daughter, brother, or sister.

Subd. 2. The election judges and election clerks together, by majority vote, shall establish the location or locations for balloting, shall plan and organize the election process, shall generally supervise the conduct of the election, and shall publicize the election time, location, and procedures. The election clerks shall maintain custody of the ballots until the ballots are counted, and shall cooperate with the election judges in providing absentee ballots to voters who request them. The election judges shall receive and act on requests for absentee ballots, and shall decide any questions relating to the qualification of voters or the validity of ballots. In the event the election judges or election clerks cannot reach agreement on a particular question within their responsibilities, the question shall be decided by a majority of the election judges and election clerks together. In the event of a tie vote among the election judges and election clerks, the President of the Community Council shall break the tie.

Subd. 3. After the polls have closed and the voting has ended, the election judges and clerks together shall count the ballots. They shall certify the results of the election, and the election judges shall submit the certified results to the Community Council. The candidate receiving the highest number of votes shall be declared the winner of the first Community Council position; the candidate receiving the second largest number of votes shall be declared the winner of the second Community Council position; and so on until winners have been declared for all Community Council positions to be filled during the election.

Subd. 4. The Community Council shall notify the winning candidates and shall post the election results at the Community government center.

#### Section 5. Eligible Voters.

Only Qualified Members of the Lower Sioux Community, as defined in the Lower Sioux Community Membership Privilege and Gaming Revenue Allocation Ordinance, shall be eligible to vote in Regular Elections. The Constitution of the Lower Sioux Indian Community in Minnesota Art. VI, Sec. 5 provides that "In order to acquire the right of franchise, a voter must qualify by having reached the age of 18 years or older, on the day of the election and be a member of the Community." The Community Council shall post a list of all Community Members who are 18 years or older eligible



voters in the Community government center at least fourteen days before the day of the election. A person may protest the presence or absence of names from the eligible voting list, provided that the protest is written and signed, and filed with an election judge at least seven days before the election. The election judges shall decide the protest. If the election judges cannot reach agreement, the question shall be decided by a majority of the election judges and election clerks together. In the event of tie vote among the election judges and election clerks, the President of the Community Council shall break the tie. The decision on the protest made pursuant to this section shall be final, and there shall be no appeals allowed.

#### **Section 5A. Write-in Candidates.**

Eligible voters may vote for write-in candidates, and such votes will be counted as valid.

#### **Section 6. Absentee Ballots.**

An eligible voter may vote in a Regular Election by absentee ballot if such voter will be unable to vote at the polls on election day. A request for an absentee ballot shall be in writing and shall be signed by the voter requesting the ballot. The request shall be submitted to an election judge by the voter himself/herself, either by mail or in person. Absentee ballots shall not be sent or given out by an election judge more than ten days before the election. All absentee ballots shall be returned to an election judge, either by mail or in person, by the closing of the polls on election day. The election judges shall oversee the absentee ballot process, may establish additional procedures not inconsistent with this section, and shall publicize the procedures for absentee ballot voting as they deem appropriate.

#### **Section 7. Recounts.**

Any candidate may request a recount of ballots. A candidate seeking a recount shall file a written and signed request for a recount with an election judge by 5:00 p.m. on the third day following the day of the election. The election judges shall consider the request and make a decision on the request within two days after the request is filed. A recount shall be ordered only if both election judges determine either that the closeness of the vote makes a recount desirable, or that a material question exists as to whether the initial vote count was accurate. The decision on whether or not to order a recount shall be final and there shall be no right of appeal. If a recount is ordered, it shall take place within twenty-four hours of the order.

#### **Section 8. Election Protests.**

Subd. 1. A protest of the election may be filed only by a candidate. A candidate protesting an election shall prepare a written Notice of Protest stating the specific reasons for his/her protest, and shall file such Notice of Protest with the Lower Sioux Community Court by 5:00 p.m. of the fifth day following the day of the election. The Court must

actually receive the Notice of Protest by the foregoing time, although timely submission by telefax followed by filing by mail shall be adequate. The Court may order such hearings and submissions as the Court deems desirable, and shall make a decision on the protest within fourteen days following the day the Notice of Protest was filed. The decision of the Court shall be final, and there shall be no appeals allowed.

Subd. 2. In any election protest heard by the court, the burden of proof of irregularities shall rest with the protester. The protester shall be limited to arguing the allegations contained in the written Notice of Protest. The Court may affirm the results of the election or order that the results of the election are invalid and that a new election shall be held under such conditions as the Court may deem necessary and proper; however, in no case shall the Court order that a new election be held unless the protester demonstrates by clear and convincing evidence that there were substantial and grave irregularities which affected the outcome of the election. Proof of minor technical irregularities shall not require that new election be held.

#### **Section 9. Assuming Office.**

Subd. 1. If there has been no timely Notice of Protest filed with the Community Court, or if the Court has upheld the election after a Notice of Protest has been filed, the winning candidates shall assume office at 12:01 a.m. on the thirty-first day after the day of the election.

Subd. 2. If the Community Court rules that a new election must be held, the winning candidates in the new elections shall assume office:

- (a) If no timely Notice of Protest has been filed with the Community Court on the new election, at 12:01 a.m. on the seventh day following the new election; or
- (b) If a timely Notice of Protest has been filed with the Community Court and the ruling of the Court upholds the new election, at 12:01 a.m. on the day following the day the order upholding the new election is filed.

#### **Section 10. Election of Community Council Officers.**

The officer positions of the Community Council are, in order of rank: President, Vice President, Secretary, Treasurer, and Assistant Secretary-Treasurer. As soon as practicable after each regular election has been held and after all new members of the Council have assumed office, the new Council shall meet and select its officers by secret ballot.

#### **Section 11. Time.**

Any period of time identified by this Ordinance that is less than seven days will not include intermediate Saturdays, Sundays, or legal holidays in the period, and any



period which would otherwise end on a Saturday, Sunday, or legal holiday will extend to the next day which is not a Saturday, Sunday, or legal holiday.

*[Originally adopted May 27, 1997 (Resolution No. 85-97)]*

*[Amended July 17, 1997 (Resolution No. 140-97). Amendment added Section 5A.]*

*[Amended June 7, 1999 (Resolution No. 38-99). Amendment changed certain deadlines by one day in Section 7 and Section 9 so that the deadlines would not fall on a Sunday.]*

*[Amended June 15, 2001 (Resolution No. 56-01). Amendment allowed designation of a different election day by Council in Section 2, subd. 1.]*

*[Amended June 20, 2001 (Resolution No. 62-01). Amendment added Section 11.]*

*[Amended May 18, 2006 (Resolution No. ...). Amendment allowed all Community Members over 18 years to vote in elections.]*