

ELECTION ORDINANCE

Section 1. ELECTION COMMITTEE - There is hereby created an Election Committee of five adult citizens of the Bay Mills Indian Community which shall carry out the provisions and procedures of this Ordinance. The members of the Election Committee shall be appointed by the Executive Council to serve a staggered five-year term; the first term shall commence in January 2024, at which time the Council shall appoint three citizens for a full term expiring in January 2029, and appoint two citizens for a term of two years expiring in January 2027 and thereafter serve for five-year terms. Vacancies in the Committee shall likewise be filled by the Executive Council. Committee members shall be paid for their time preparing for and conducting elections under this Ordinance, at a rate of compensation set by the Executive Council. In addition, staff employed in Tribal Government administration positions may be designated by the Executive Council as Election Secretary to accept documents required to be submitted to the Committee and assist with other Committee duties as contained in this Ordinance.

Section 2. CANDIDATES FOR TRIBAL OFFICE - Any citizen of the Bay Mills Indian Community who is at least twenty-one (21) years of age is eligible to hold tribal office, with the following exceptions:

(a) Election Committee members may not seek elective office while serving on the Committee.

(b) A candidate may run for only one elective office in an election year.

(c) In the event that a candidate is already serving in an elected position for which the term does not expire at the time of the election, the candidate may file for a separate elected position, provided that the candidate resigns from the initial position immediately after the election should the candidate win.

Section 3. FILING FOR TRIBAL OFFICE - A candidate for tribal office shall submit to the Election Committee a written notice of such candidacy.

Section 4. DEADLINE FOR FILING -

(a) Each candidate for tribal office must file a notice of candidacy with the Election Committee no earlier than the third Wednesday in August and no later than the first Wednesday in September of the election year. No petition will be accepted by the Committee after 4:00 o'clock in the afternoon of that date.

(b) A candidate may terminate candidacy by filing a written notice of withdrawal at any time prior to the date on which election is scheduled. If no primary election

is set for that office, the candidate may withdraw up to the date on which the General Election is scheduled. Any vote cast for a candidate who has withdrawn will be included in the number of votes cast, but will not be counted for purposes of determining the winner.

Section 5. PRIMARY ELECTIONS - Upon acceptance of all the candidates' notices of candidacy, the Election Committee shall call a primary election for those offices, if any, for which more than two (2) candidates have filed. If a primary election is called by the Committee, it shall be held on the first Wednesday of the month of October in the election year. The duties of the Committee in publicizing and overseeing the election shall be the same as those provided herein for the general elections. The Committee shall announce the results of the primary election as soon as practicable. The two candidates for each tribal office who receive the highest number of votes shall be announced as the candidates for the General Election.

Section 6. GENERAL ELECTIONS - The election of Tribal Officers shall be held on the first Wednesday in the month of November of each election year. Notice of the election shall be posted by the Election Committee at least 30 days in advance of the election date. It shall be the responsibility of the Committee to prepare the ballots, supervise the polling places, count the ballots, and announce the results as soon as practicable. The winners of the General Election shall be invested in office on the first Monday of the month of November following the election.

Section 7. TIES - In the event of a tie vote for any office, the Election Committee shall conduct a recount of the votes cast for each candidate for that specific office, only. If, after the recount is conducted, there remains a tie in the number of ballots cast, the Election Committee shall take the following actions:

- A. In the event that the tie vote occurs in the primary election, and the number of votes for each candidate exceed those cast for any other candidate, the two tied candidates shall be the two listed for that position in the General Election.
- B. In the event that the tie vote occurs in the primary election, with the number of votes for each candidate being less than the number cast for the first-place candidate, only, the two tied candidates shall both proceed to the General Election along with the first-place candidate.
- C. In the event that the tie vote occurs in the General Election, the Election Committee shall call a special election for that tribal office, only, limited to the two candidates who received the same number of votes. The Committee shall

schedule that election to occur not less than 21 days, and not more than 30 days after the General Election, and shall also set the dates by which requests for ballots must be made and absentee ballots must be returned. The election shall be conducted pursuant to Section 11 (Voter Eligibility), Section 13 (Time and Place of Voting) and Section 16 of this Ordinance.

- D. In the event that the special election again results in a tie in the number of ballots cast for the two candidates, the Election Committee shall then decide the result of the election by drawing lots. The Election Committee shall prepare as many slips of paper as there are candidates with an equal number of votes, and write the word "elected" on as many slips of paper as there are offices to be filled, and the words "not elected" on the remaining slips, and fold the slips so as to conceal the writing and so that they appear as near alike as possible. The slips shall be placed in a box and, pursuant to alphabetical order as determined by the Election Committee, each candidate shall draw one (1) slip from the box. Any candidate drawing a slip on which "elected: is written shall be declared elected to the office in question.

Section 8. POLLING PLACE CONDUCT; ASSISTANCE IN VOTING - No individual shall be present at the polling place unless he or she is engaged in voting or is physically assisting an adult citizen to enter or leave the voting booth. Any citizen requesting or needing assistance in the act of voting, shall receive such assistance from a member of the Election Committee, only. Violators shall be removed from the polling place and may be subject to civil or criminal penalties for trespass.

Section 9. RECOUNTS - The Election Committee shall conduct an automatic recount for any office when the margin between the candidates is five (5) votes, or less. Any candidate for tribal office may request within 24 hours of the announcement of election results that the Committee recount the ballots cast for the office for which s/he is a candidate. Such requests shall be accompanied by the notarized affidavits of at least one (1) other adult citizen of the Community, containing facts of the citizen's own knowledge which leads the citizen to believe that a recount should be made. Upon the receipt of a request for a recount, the Committee shall declare the tribal office at issue to be vacant until the results of the recount.

Section 10. REFERENDUM - A referendum election shall be called by the Election Committee within twenty (20) days of its receipt of either a petition for such vote signed by at least thirty (30) per cent of the resident eligible voters, or a resolution passed by a two-thirds (2/3) majority of the General Tribal Council, providing for such vote. Notice of such an election shall be posted by the Election Committee at least fifteen (15) days prior to the referendum date. Absentee ballots shall be sent to

those persons whose request for such ballot is on file with the Committee. The time, place and manner of voting shall be governed by the provisions of this Ordinance.

Section 11. VOTER ELIGIBILITY - Any citizen of the Community who is eighteen years of age or older is eligible to vote in any election.

Section 12. ABSENTEE BALLOTS - Any voter who will not be able to cast his/her ballot in person may request the Election Committee to issue him/her an absentee ballot. A request for an absentee ballot may be made after September 1st of each election year, and can combine a request for both a primary and general election ballot. Such request may be made in person, by electronic mail, by telefacsimile, or by mail, and signed by the person requesting the ballot, but in any case must be made no later than seven (7) days before the day of the election.

Section 13. TIME AND PLACE OF VOTING - The casting of ballots in any election called under this Ordinance shall be done within the hours of 7:00 o'clock a.m. and 8:00 o'clock p.m. at the location(s) designated by the Election Committee.

Section 14. ELECTION OF CONSERVATION COMMITTEE MEMBERS AND TRIBAL JUDGES - The provisions of this Ordinance shall apply to election of members to the Conservation Committee and to election of Tribal Judges by citizens of the Bay Mills Indian Community.

Section 15. SPECIAL ELECTIONS - A special election shall be called to fill a vacancy on the Executive Council when such a vacancy is created more than 90 days prior to the expiration of the Council member's term of office. The Election Committee shall conduct the special election under the following procedures:

A. The Election Committee shall post a notice of special election to be conducted not less than 30 days, and not more than 40 days, from the date of posting, and require any candidate for the position to file a written notice of such candidacy within ten (10) days of the posting date with the Committee.

B. The Election Committee shall review the candidacy notice to ensure each is eligible to hold tribal office and prepare the election ballots.

C. Each special election shall be conducted pursuant to Section 11 (Voting Eligibility), 12 (Absentee Ballots) and 13 (Time and Place of Voting) of this Ordinance, provided that the dates by which requests for ballots and absentee

ballot returns must be received shall be established by the Election Committee.

- D. If the results of the special election are determined by the Election Committee to cause the winner of the election to have obtained 51 per cent or more of the votes cast, the Election Committee shall declare the vacancy to be filled by the winner. If no candidate obtains at least 51 per cent of the votes cast, the Election Committee shall schedule a second special election, with the ballot limited to the two candidates who received the highest number of votes in the first special election.
- E. The Election Committee shall schedule, if required, the second special election to occur no less than 10 days, and no more than 20 days, after the first special election. The winner of the second special election shall be declared by the Election Committee and shall immediately take office as a member of the Executive Council, and shall serve the remainder of that position's unexpired term.

Section 16. CAMPAIGNING - Any election conducted under this Ordinance is subject to the following rules of conduct:

- A. No member of the Election Committee shall engage in any activity which constitutes support for any particular candidate or group of candidates. A violation of this section shall result in immediate removal of the member by the Executive Council.
- B. On election day, a person shall not post, display, or distribute in a polling place, in any hallway used by voters to enter or exit a polling place, or within 100 feet of an entrance to a building in which a polling place is located, any material which directly or indirectly makes reference to a candidate. Any such material shall be immediately removed.
- C. All campaign signs or advertisements shall be removed within thirty (30) days following the election.
- D. No employee of the Bay Mills Indian Community shall post candidate support material within any facility owned or operated by the Tribe. Any such material shall be immediately removed.

Section 17. POWERS OF THE ELECTION COMMITTEE - In addition to the performance of the duties and responsibilities identified in this Ordinance, the Election Committee

may establish such rules and procedures as it determines are needed in order to ensure that Bay Mills Indian Community elections are fair, unbiased, and transparent, and that the results are accepted as accurately reflecting the will of its voters. Any such rule and procedure shall be in writing and available to the Tribe's citizens upon written request or in electronic format.