

**LITTLE SHELL TRIBE  
ELECTION CODE  
ENACTED ON MAY 6, 2022**

**Table of Contents**

<b>SECTION 1 – INTRODUCTION, PURPOSE, &amp; AUTHORITY .....</b>	<b>3</b>
SECTION 1.1 – SHORT TITLE .....	3
SECTION 1.2 – AUTHORITY .....	3
SECTION 1.3 – PURPOSE .....	3
SECTION 1.4 – SEVERABILITY .....	3
<b>SECTION 2 – SOVEREIGN IMMUNITY .....</b>	<b>3</b>
<b>SECTION 3 – DEFINITIONS .....</b>	<b>3</b>
<b>SECTION 4 – ELECTED TRIBAL COUNCIL POSITIONS &amp; TIMING OF ELECTIONS .....</b>	<b>4</b>
SECTION 4.1 – ELECTED TRIBAL COUNCIL POSITIONS & TERMS .....	4
SECTION 4.2 – TIMING OF REGULAR ELECTIONS .....	4
SECTION 4.3 – SPECIAL ELECTIONS TO FILL VACANCIES .....	5
SECTION 4.4 – RECALL ELECTIONS .....	5
<b>SECTION 5 – ELECTION COMMITTEE .....</b>	<b>5</b>
SECTION 5.1 – LITTLE SHELL ELECTION COMMITTEE PURPOSE .....	5
SECTION 5.2 – ELECTION COMMITTEE STRUCTURE, APPOINTMENT, TERM, AND QUALIFICATIONS .....	5
SECTION 5.3 – ELECTION COMMITTEE DUTIES .....	6
SECTION 5.4 – ELECTION COMMITTEE RESOURCES .....	8
SECTION 5.5 – OATH .....	8
SECTION 5.6 – COMPENSATION .....	8
<b>SECTION 6 – VOTER ELIGIBILITY .....</b>	<b>8</b>
SECTION 6.1 – ELIGIBLE VOTERS .....	8
SECTION 6.2 – QUALIFIED VOTERS .....	8
<b>SECTION 7 – CANDIDATES REQUIREMENTS .....</b>	<b>8</b>
SECTION 7.1 – CANDIDATES .....	8
<b>SECTION 8 – FILING PROCEDURES FOR CANDIDATES .....</b>	<b>10</b>
SECTION 8.1 – FILING DATE .....	10
SECTION 8.2 – FILING FEE .....	10
SECTION 8.3 – CANDIDATE APPLICATION .....	10
SECTION 8.4 – INCOMPLETE CANDIDATE APPLICATIONS .....	11
SECTION 8.5 – REVIEW OF CANDIDATE APPLICATIONS .....	11
SECTION 8.6 – APPROVED CANDIDATE LIST .....	11
SECTION 8.7 – DISQUALIFIED PROSPECTIVE CANDIDATE .....	11
SECTION 8.8 – APPEALS FOR DISQUALIFIED PROSPECTIVE CANDIDATES .....	11
<b>SECTION 9 – CAMPAIGN PROCEDURES .....</b>	<b>12</b>
SECTION 9.1 – DATE TO START CAMPAIGNING .....	12

SECTION 9.2 – PROHIBITED ACTIVITIES DURING CAMPAIGNING .....	13
SECTION 9.3 – ELECTION COMMITTEE’S POWER TO ENFORCE .....	13
SECTION 9.4 – CANDIDATE DUTIES IN CAMPAIGNS .....	14
SECTION 9.5 – MAILING ADDRESSES OF QUALIFIED VOTERS .....	14
SECTION 9.6 – PROHIBITED CAMPAIGN LOCATIONS .....	14
SECTION 9.7 – CANDIDATE FORUMS.....	14
SECTION 9.8 – PROHIBITION AGAINST HARASSMENT OF THE ELECTION COMMITTEE .....	14
SECTION 9.9 – DISCLOSURE OF CAMPAIGN CONTRIBUTIONS.....	14
<b>SECTION 10 – ELECTION MATERIALS.....</b>	<b>15</b>
SECTION 10.1 – BALLOTS.....	15
SECTION 10.2 – ABSENTEE BALLOTS.....	15
SECTION 10.3 – FORMS AND INSTRUCTIONS.....	16
SECTION 10.4 – DISSEMINATION OF ELECTION MATERIALS.....	16
<b>SECTION 11 – ELECTION PROCEDURES.....</b>	<b>16</b>
SECTION 11.1 – NOTICE OF ELECTIONS .....	16
SECTION 11.2 – POLLING PLACES AND TIME .....	16
SECTION 11.3 – ASSISTANCE TO VOTERS WITH DISABILITIES .....	17
SECTION 11.4 – SPOILED BALLOTS.....	17
SECTION 11.5 – TABULATION OF BALLOTS .....	17
SECTION 11.6 – HANDLING OF ABSENTEE BALLOTS.....	17
SECTION 11.7 – TIEBREAKER.....	18
SECTION 11.8 – ELECTION COMMITTEE CERTIFICATION OF ELECTION RESULTS .....	18
<b>SECTION 12 – ACCEPTANCE OF CERTIFICATION AND INAUGURATION .....</b>	<b>18</b>
SECTION 12.1 – CERTIFICATION OF ELECTION RESULTS.....	18
SECTION 12.2 – SEATING OF NEWLY ELECTED TRIBAL COUNCIL.....	18
SECTION 12.3 – OATH OF OFFICE.....	18
<b>SECTION 13 – ELECTION APPEAL PROCEDURES.....</b>	<b>19</b>
SECTION 13.1 – DISQUALIFIED VOTERS .....	19
SECTION 13.2 – INELIGIBLE VOTERS.....	19
SECTION 13.3 – BALLOT RECOUNT PROCEDURES .....	19
SECTION 13.4 – COMPLAINTS FOR VIOLATION OF ELECTION CODE .....	20
<b>SECTION 14 – TRIBAL COUNCIL VACANCIES .....</b>	<b>22</b>
SECTION 14.1 – FILLING VACANCIES ON TRIBAL COUNCIL .....	22
SECTION 14.2 – TIMING OF THE SPECIAL ELECTION.....	22
SECTION 14.3 – ELECTION COMMITTEE .....	23
<b>SECTION 15 – RECALL PETITIONS &amp; RECALL ELECTIONS.....</b>	<b>23</b>
SECTION 15.1 – RECALL PETITION REQUIREMENTS .....	23
SECTION 15.2 – THRESHOLD FOR A SUCCESSFUL RECALL PETITION .....	23
SECTION 15.3 – TIMEFRAME TO GATHER RECALL SIGNATURES.....	24
SECTION 15.2 – REVIEW OF PETITION BY ELECTION COMMITTEE.....	24
SECTION 15.3 – RECALL VOTING PROCEDURES .....	24
SECTION 15.4 – ACCEPTANCE OF CERTIFICATION AND INAUGURATION .....	25
<b>SECTION 16 – NO FEDERAL OR STATE JURISDICTION.....</b>	<b>25</b>
SECTION 16 – NO FEDERAL OR STATE JURISDICTION .....	25

## **LITTLE SHELL ELECTION CODE**

***MAY 6, 2022***

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### **Section 1 – INTRODUCTION, PURPOSE, & AUTHORITY**

#### **Section 1.1 – Short Title**

This Act may be cited as the “Little Shell Election Code.”

#### **Section 1.2 – Authority**

The Little Shell Tribal Council enacts the Little Shell Election Code pursuant to Article I and Article III of the Little Shell Tribal Constitution, which vests the authority of self-government in the Little Shell Tribal Council while outlining constitutionally required elements of tribal elections.

#### **Section 1.3 – Purpose**

The Little Shell Tribal Council enacts the Little Shell Election Code to provide the statutory structure for tribal elections. Its goal is to provide secure, efficient, and transparent tribal elections that promote the integrity of the Little Shell Tribe and its government. The Tribe seeks to ensure that all qualified Little Shell voters have a voice in tribal governance through the election of the Little Shell Tribal Council.

#### **Section 1.4 – Severability**

If any provision of the Little Shell Election Code, or the application thereof to any person or circumstance, shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of the law, which shall remain in full force and effect.

### **Section 2 – SOVEREIGN IMMUNITY**

The Little Shell Tribe does not in any manner waive its sovereign immunity through the enactment of the Little Shell Election Code. Any dispute arising under the Little Shell Election Code shall remain under the sole jurisdiction of the Little Shell Tribe. No other tribunal or venue is authorized.

### **Section 3 – DEFINITIONS**

- (A) Approved Candidate List – the term “Approved Candidate List” means the list published and approved by the Election Committee of Qualified Members that have met the requirements to be a candidate in Little Shell tribal elections.

- (B) Eligible Voter – the term “Eligible Voter” means an enrolled member of the Little Shell Tribe that has at least attained eighteen (18) years of age on the date of the election and that is not on the suspension list as described in the Little Shell Enrollment Code.
- (C) Executive Board – the term “Executive Board” is defined as Chairman, First Vice Chairman, Second Vice Chairman, and Secretary-Treasurer as outlined in Article I, Section III of the Little Shell Tribal Constitution.
- (D) Election Committee – the term “Election Committee” is the three (3) member committee appointed by the Tribal Council to administer tribal elections.
- (E) Little Shell Constitution – the term “Little Shell Constitution” means the Constitution of the Little Shell Tribe of Chippewa Indians, which was approved on September 19, 1977, and amended on November 11, 2015.
- (F) Little Shell Tribal Council – the term “Little Shell Tribal Council” or “Tribal Council” have the same meaning as defined in Article I, Section II of the Little Shell Constitution.
- (G) Tribe – the term “Tribe” means the Little Shell Tribe of Chippewa Indians, which was restored to federal recognition on December 20, 2019.
- (H) Qualified Member – the term “Qualified Member” means an enrolled member of the Little Shell Tribe that meets the requirements to become a candidate for Tribal Council.
- (I) Qualified Voters – the term “Qualified Voters” means the total number of enrolled Little Shell tribal members that are at least eighteen (18) years of age on the date of the tribal election.

#### **Section 4 – ELECTED TRIBAL COUNCIL POSITIONS & TIMING OF ELECTIONS**

##### **Section 4.1 – Elected Tribal Council Positions & Terms**

- (A) The Tribal Council consists of a Chairman, First Vice Chairman, Second Vice Chairman, Secretary-Treasurer, and three (3) at-large Tribal Councilmembers.
- (B) The Executive Board consists of the Chairman, First Vice Chairman, Second Vice Chairman, and Secretary-Treasurer. Each Executive Board position is elected to serve a four-year term.
- (C) Each at-large Tribal Councilmember position is elected to serve a two-year term.

##### **Section 4.2 – Timing of Regular Elections**

- (A) Elections shall be held every two (2) years on the second Saturday in the month of November. The three (3) Tribal Councilmember positions shall be on the ballot during each election and the Executive Board positions shall only be on the ballot every other election based on the terms of these elected positions.
- (B) The Election Committee has the authority to postpone an election by up to three weeks in situations where weather, a natural disaster, or some other grave situation would create a severe risk to the health and safety of voters trying to reach the polls.
  - (i) If this situation occurs the Election Committee will work to hold the election as soon as possible, and if necessity requires, move to an entirely mail-in ballot system.

#### **Section 4.3 – Special Elections to Fill Vacancies**

If a member of the Tribal Council shall die, resign, or be removed from the Tribal Council then a special election shall be held following the procedures of Section 14 of the Little Shell Election Code. A special election will only be called in instances when there is more than nine (9) months remaining in the term of the vacant Tribal Council position.

#### **Section 4.4 – Recall Elections**

Recall elections shall follow procedures set forth in Section 15 of the Little Shell Election Code.

### **Section 5 – ELECTION COMMITTEE**

#### **Section 5.1 – Little Shell Election Committee Purpose**

The Little Shell Election Committee shall be responsible for the orderly, transparent, and fair administration of Little Shell tribal elections according to the Little Shell Election Code.

#### **Section 5.2 – Election Committee Structure, Appointment, Term, and Qualifications**

- (A) The Election Committee shall consist of three (3) members – one (1) serving as committee chair and two (2) serving as members of the committee.
  - (i) The Tribal Council shall also nominate one (1) alternative member of the Election Committee should a replacement be necessary for an individual serving on the Election Committee.
    - (a) The alternate member shall be trained with the Election Committee but shall not participate in deliberations or meetings of the Election Committee unless they are called upon to replace an individual serving on the Election Committee.
- (B) Election Committee members shall be appointed and confirmed by a majority vote

of the Tribal Council. The Tribal Council will designate whether the appointee is to serve as the Election Committee Chair or as one of the two (2) Election Committee Members.

- (C) The Election Committee shall be appointed by May 15<sup>th</sup> of each election year and shall serve until the election is certified, any challenges have been resolved, and the Election Committee has submitted its report to Tribal Council pursuant to Section 5.3(B)(xi).
  - (i) The Election Committee may be recalled to service should a special election, recall petition, or recall election become necessary in the time between the election certification and the next election.
- (D) To be eligible to serve on the Election Committee individuals must:
  - (i) be an enrolled member of the Little Shell Tribe;
  - (ii) have attained the age of thirty (30) at the time of the appointment;
  - (iii) have the necessary qualifications to understand and implement the provisions of the Little Shell Election Code; and
  - (iv) be of high moral character.
- (E) An individual may not serve on the Election Committee during the same election cycle that they are a candidate for Tribal Council.
- (F) No one may serve on the Election Committee in an election where a first-degree or second-degree relative is seeking to hold office. If a candidate that declares their intention to seek office as a Qualified Member has a first-degree or second-degree relative serving on the Election Committee, that relative shall resign from the Election Committee and the alternative member shall take their place. If the Election Committee member refuses to resign, then the Tribal Council shall remove them by a majority vote.
  - (i) First-degree relatives include parents, siblings, and children of the Qualified Member. Second-degree relatives include uncles, aunts, nieces, grandparents, and grandchildren of the Qualified Member. For purposes of this section, and this section only, adopted family members will be treated and considered blood relatives.
- (G) The Tribal Council shall assist in ensuring that appropriate training and resources are provided to the Election Committee to perform its duties.

**Section 5.3 – Election Committee Duties**

- (A) The Election Committee is responsible for overseeing the orderly, transparent, and efficient administration of Little Shell tribal elections while protecting the integrity of the Tribe's election system.
- (B) The Election Committee has the following duties that shall help it meet its charge in Section 5.3 (A) of the Little Shell Election Code:
  - (i) To publish and post notices for Little Shell tribal elections;
  - (ii) To maintain a list of Eligible Voters, which shall be furnished by the Little Shell Enrollment Department;
  - (iii) To ensure that any individual seeking to vote is an Eligible Voter;
  - (iv) To ensure that any individual seeking to become a candidate for Tribal Council is Qualified Member and meets the requirements of the Little Shell Election Code;
  - (v) To prepare ballots for Little Shell tribal elections, which shall be numbered in sequence and tracked to ensure the integrity of ballots;
  - (vi) To establish and supervise all polling locations;
  - (vii) To settle any disputes that arise about a potential voter's eligibility;
  - (viii) To keep a record of Eligible Voters that cast a ballot during a tribal election;
  - (ix) To count and validate ballots and record the number of votes cast for each candidate;
  - (x) To certify the election in writing to the Tribal Council within five (5) days after each election; and
  - (xi) To prepare a report to the Tribal Council within six (6) months after each election summarizing the proceedings of each election and providing Election Committee recommendations for amendments to the Little Shell Election Code or other suggested actions to improve the administration of tribal elections.
- (C) The Election Committee Chair shall be responsible for calling and presiding over meetings of the Election Committee. The Election Committee shall strive for consensus in its decision-making but if a consensus is not possible on a specific issue, then a majority vote shall be held to decide how to proceed on the issue.
- (D) The Little Shell Election Committee has the powers necessary to implement and enforce the provisions of the Little Shell Election Code.

### **Section 5.4 – Election Committee Resources**

The Election Committee will be provided with a secure space to hold its meetings to ensure privacy of its deliberations. The Election Committee shall also be furnished with a private email account and at its request a Post Office box and a fax number.

### **Section 5.5 – Oath**

When the Election Committee appointments are confirmed by the Tribal Council, the Tribal Chairman or his/her Tribal Council designee, shall administer to the following oath to all Election Committee members:

I [insert name] swear to uphold the Constitution and laws of the Little Shell Tribe. I promise to dutifully enforce the Little Shell Election Code and ensure that the tribal election is administered in a just and transparent manner. I swear to not let my personal preferences influence my implementation of the Little Shell Election Code and that I will not bias the tribal election process or its results in any manner.

### **Section 5.6 – Compensation**

The Tribal Council shall set the appropriate compensation for the Election Committee at the time of the Election Committee's appointment. This compensation shall be fair but not be exorbitant.

## **Section 6 – VOTER ELIGIBILITY**

### **Section 6.1 – Eligible Voters**

Only Eligible Voters may vote in Little Shell tribal elections. Eligible Voters must be enrolled members of the Little Shell Tribe that are at least eighteen (18) years of age on the date of the tribal election.

### **Section 6.2 – Qualified Voters**

Qualified Voters are the total number of enrolled Little Shell tribal members that are at least eighteen (18) years of age on the date of the tribal election.

## **Section 7 – CANDIDATES REQUIREMENTS**

### **Section 7.1 – Candidates**

The Little Shell Constitution requires candidates for Tribal Council to be Qualified Members. Qualified Members must meet the following criteria to be eligible to become a candidate for any Tribal Council position:

- (A) Enrolled member of the Little Shell Tribe – The candidate must be an enrolled member of the Little Shell Tribe.



- (i) The candidate shall not be currently enrolled in any other federally recognized tribe, state recognized tribe, or band (as defined by the Indian Act of Canada).
  - (ii) The candidate's Little Shell tribal membership shall not be in suspension.
- (B) Montana Residency Requirement – The candidate must establish permanent residency in the State of Montana at least one (1) year before the date of the tribal election.
- (i) Proof of residency is established by providing:
    - (a) Montana voter registration; a Montana driver's license; having a Montana resident hunting or fishing license; or similar state-issued documents that are only issued to Montana residents;
    - (b) A utility bill in the candidate's name; and
    - (c) The proof of residency must also contain proof that the residency was established one (1) year prior to the tribal election.
- (C) Tribal Participation Requirement – The Tribe requires that any candidate seeking office must have an established record of participating in the community. Therefore, a candidate must have attended, either in-person or online, at least five (5) Little Shell quarterly meetings in the two (2) years leading up to the tribal election that the candidate is seeking office. However, for the 2022 tribal election cycle that threshold will have been met by attending two (2) Little Shell quarterly meetings. Presence at the Little Shell quarterly meetings will be verified by sign-in sheets for in-person attendees or online registration for those participating virtually. The Election Committee will be provided the sign-in sheets and registration information for all attendees. Prospective candidates may request their attendances records. The Tribe's attendance records are paramount, and it was the prospective candidate's responsibility to ensure that they properly registered or signed-in for any quarterly meetings that they may have attended.
- (D) Age Requirement – The candidate must be thirty (30) years of age by the date of the tribal election to seek a position on the Executive Board. A candidate seeking to run for one of the three (3) Tribal Councilmember positions must be twenty-five (25) years of age by the date of the tribal election.
- (E) Education Requirement – The candidate must possess at least a high school diploma or a general equivalent degree.
- (F) Conviction of a Felony or Misdemeanor Involving Dishonesty – The candidate may not have been convicted of a felony or a misdemeanor involving either dishonesty or an act of moral turpitude within the past ten (10) years.

## **Section 8 – FILING PROCEDURES FOR CANDIDATES**

### **Section 8.1 – Filing Date**

- (A) The Election Committee shall provide notice of the date of tribal elections ninety (90) calendar days before the tribal election is to be held. When the Election Committee makes this announcement prospective candidates will have thirty (30) calendar days to submit their candidate application and supporting materials.
- (B) The Election Committee shall provide a five (5) calendar day grace period after the close of the thirty (30) calendar days for prospective candidates to supplement applications that have been found deficient.
  - (i) No new applications will be accepted during the five (5) calendar day grace period, only timely submitted applications may be remedied.
- (C) If a prospective candidate fails to submit a completed candidate application pursuant to Section 8.3 within this thirty (30) calendar day window and fails to remedy a deficient application during the five (5) calendar day grace period, then the prospective candidate shall be disqualified.

### **Section 8.2 – Filing Fee**

Prospective candidates are required to pay a filing fee of \$200.00 along with their candidate application. If the prospective candidate fails to submit the filing fee, their candidate application will be considered deficient, and it will not be processed. The filing is non-refundable and will not be returned under any circumstance.

### **Section 8.3 – Candidate Application**

Prospective candidates must submit a candidate application packet that consists of the following materials:

- (A) Candidate application form;
  - (i) The prospective candidate may only seek one elected position and the candidate must correctly identify which elected position they are seeking candidacy. Failure to accurately identify one elected position will render the application form deficient and it will not be processed;
- (B) A personal biography statement of at least two paragraphs but not more than two pages;
- (C) Letter of interest to the Election Committee;

- (D) Photo identification;
- (E) Proof of Montana residency;
- (F) Resume;
- (G) Proof of educational requirement set forth in Section 7.1(E); and
- (H) Completed authorization form to approve the background investigation.

#### **Section 8.4 – Incomplete Candidate Applications**

The Election Committee shall not process candidate applications that are incomplete and do not meet the requirements of Section 8.3. These candidate applications shall be labeled deficient, and the prospective candidate will not be eligible to seek office unless the deficiency is remedied within the statutory timeline in Section 8.1. The Election Committee shall immediately notify the prospective candidate by phone and e-mail of the deficiency. The Election Committee shall not process or otherwise work on deficient candidate applications after the statutory timeline in Section 8.1 has lapsed. It is the prospective candidate's responsibility to submit a complete and timely candidate application to be eligible to seek office.

#### **Section 8.5 – Review of Candidate Applications**

The Election Committee shall review all timely submitted candidate applications to ensure that they are completed, and that the prospective candidate is a Qualified Member meeting all the requirements to seek office.

#### **Section 8.6 – Approved Candidate List**

The Election Committee shall publish a list of Qualified Members that have met the requirements to become a candidate for Tribal Council no less than six (6) weeks prior to the tribal election. The candidate list shall include the names of the candidates and the elected position that the candidate is seeking.

#### **Section 8.7 – Disqualified Prospective Candidate**

The Election Committee shall provide written notice to any prospective candidates that have been deemed ineligible to run for election to Tribal Council. The notice shall include the Election Committee's reasoning on how it determined the prospective candidate was ineligible. The notice shall be mailed and e-mailed to the prospective candidate by at least the same date that the list of Qualified Members running for Tribal Council is published pursuant to Section 8.6.

#### **Section 8.8 – Appeals for Disqualified Prospective Candidates**

Disqualified prospective candidates have five (5) business days from the date of the notice of disqualification to request an appeal. The request for the appeal shall be submitted to the Election

Committee who shall forward it to the Little Shell Elder Executive Committee.

- (A) The Elder Executive Committee will schedule a hearing, which may occur by phone, for the disqualified prospective candidate to challenge the Election Committee's decision.
- (B) The Elder Executive Committee will schedule the hearing within two (2) weeks of its receipt of the appeal.
- (C) The disqualified prospective candidate will be afforded the opportunity during the hearing to present the reasons why they believe the Election Committee's decision was in error. This presentation may not be longer than thirty (30) minutes. The Elder Executive Committee may ask questions during the hearing.
  - (i) Only the disqualified candidate may participate or present during the appeal. No other person will be allowed to speak on the disqualified candidate's behalf.
- (D) The Elder Executive Committee may call on the Election Committee Chairperson, or their designee, to provide the Election Committee's views and justification for their initial decision as well as ask questions.
  - (i) The Election Committee's presentation may not be longer than thirty (30) minutes.
- (E) Following the hearing the Elder Executive Committee shall consider the reasoning of the Election Committee's decision and the argument raised by the disqualified prospective candidate. The Elder Executive Committee will then render a decision, by a majority vote, on whether the Election Committee's decision shall stand or be overturned.
  - (i) The Elder Executive Committee shall not have discretion to deviate from the Little Shell Election Code and the Little Shell Tribal Constitution.
- (H) If the Elder Executive Committee's upholds the Election Committee's decision, then the prospective candidate will remain disqualified. If the Elder Executive Committee overturns the Election Committee's decision, then the Election Committee will place the name of the disqualified prospective candidate on the Approved Candidate List in Section 8.6 within three (3) business days of the Elder Executive Committee's decision.

## **Section 9 – CAMPAIGN PROCEDURES**

### **Section 9.1 – Date to Start Campaigning**

Candidates listed on the Approved Candidate List in Section 8.6 may begin campaigning on the

date that the list is published.

**Section 9.2 – Prohibited Activities During Campaigning**

Candidates, or their campaigns, may not engage in the following activities during a campaign.

- (A) Bribery of voters – Candidates, or their campaigns, may not give or promise money or any valuable inducement to a voter in order to corruptly induce or influence the voter to vote in a particular way;
  - (i) Community feeds during a campaign are not considered bribery. Community feeds are allowed provided that candidates allow the feed to be open to all Little Shell tribal members.
- (B) Coercion – Candidates, or their campaigns, may not use express or implied threats of violence or reprisal or other intimidating behavior that puts a candidate for office, elected official, voter, or any other person in immediate fear of the consequences in order to compel that person to act against his or her will to:
  - (i) Commit any criminal offense;
  - (ii) Accuse any person of a criminal offense;
  - (iii) Expose any secret tending to subject any person to hatred, contempt or ridicule, or to impair any person’s credit or business repute; or
  - (iv) Take or withhold action as a member of Tribal Council, a tribally-sanctioned committee, or tribal staff or cause an action as a member of Tribal Council, a tribally-sanctioned committee, or tribal staff.
- (C) Harassment – Candidates, or their campaigns, may not annoy, badger, alarm, or terrorize another through written or oral communication, with the intent to persuade or influence such other’s decision to run for Tribal Council or vote in a particular manner in a particular way;
- (D) Undue Influence – Candidates, or their campaigns, may not interfere with the free exercise of a voter’s right to vote or an individual’s right to run for office, by violence, intimidation, or other improper means; or
- (E) Collusion – Candidates, or their campaigns, may not enter into any agreement to injure, oppress, impair, threaten, or intimidate any voter in the exercise of the right to vote.

**Section 9.3 – Election Committee’s Power to Enforce**

- (A) The Election Committee is empowered to fully enforce the prohibitions in Section

9.2. The Election Committee may choose to publicly reprimand a candidate or, for extreme or repeated infractions, to disqualify the candidate.

- (i) Disqualified candidates may appeal the Election Committee's provisions by the same process outlined in Section 8.8.

**Section 9.4 – Candidate Duties in Campaigns**

- (A) Candidates should conduct their campaigns in a respectful and dignified manner.
- (B) Candidates shall not knowingly misrepresent, by assertion or omission, any fact in regard to his or her candidacy for office or another's candidacy for office, including, but not limited to, a candidate's qualifications and/or work experience.

**Section 9.5 – Mailing Addresses of Qualified Voters**

- (A) The Election Committee may create a form for Qualified Voters that wish to opt-in to a mailing list to receive campaign materials from candidates.
- (B) Candidates may request mailing labels from the Election Committee for the Qualified Voters that opted-in to the mailing list. The Election Committee may charge the candidate a nominal fee to cover the costs of printing the labels.

**Section 9.6 – Prohibited Campaign Locations**

Candidates may not conduct campaign activities at any Little Shell tribal government building or within 100 feet of a polling station when the polls are open.

**Section 9.7 – Candidate Forums**

The prohibition against campaign activities at Little Shell tribal governmental buildings contained in Section 9.6 shall not apply to any tribally-sanctioned forum, authorized by the Election Committee, where all candidates are invited to speak with Qualified Voters.

**Section 9.8 – Prohibition Against Harassment of the Election Committee**

- (A) It is unlawful for a candidate or their campaign to harass, intimidate, threaten, or otherwise abuse members of the Election Committee.
- (B) If a candidate or their campaign repeatedly engages in these unlawful activities the Election Committee may disqualify them.
- (C) If the Election Committee disqualifies a candidate, the candidate may appeal the decision following the same procedures set forth in Section 8.8.

**Section 9.9 – Disclosure of Campaign Contributions**

Candidates may solicit campaign contributions, but only from Little Shell tribal members. Any contribution over \$100 must be reported in writing to the Election Committee within one week of its receipt.

## **Section 10 – ELECTION MATERIALS**

### **Section 10.1 – Ballots**

- (A) The Election Committee shall utilize sequentially numbered ballots so that it can track how many ballots were distributed and ensure duplicate ballots are not counted.
- (B) The tribal election shall be conducted by secret ballot.
- (C) The ballots shall not contain any area for write-in candidates as write-in candidates are not permitted in tribal elections.
- (D) The ballot shall be organized by elected position and candidates for each position shall appear under the title for that position. The candidates will be listed in alphabetical order based on their last name. A box or other area shall be designated next to the candidate's name so that a mark indicating a vote may be placed by the voter.
- (E) Candidates for the three (3) Tribal Council at-large positions shall be listed in alphabetical order and voters will be allowed to vote for up to three (3) candidates.
  - (i) If a voter selects more than three options, the first three selections will be counted but no other.

### **Section 10.2 – Absentee Ballots**

- (A) Qualified Voters are eligible to request an absentee ballot from the Election Committee in advance of the tribal election.
- (B) The Election Committee shall prepare absentee ballots that shall be numbered sequentially to ensure that duplicate votes are not received.
- (C) Qualified Voters may request an absentee ballot upon notice of the tribal election and the Election Committee will accept requests for absentee ballots until 5 p.m. five (5) days before the tribal election. It is the Qualified Voters' responsibility to meet this request deadline. The Election Committee cannot guarantee that absentee ballots requested by mail will be delivered and returned in time for the deadline.
- (D) The Election Committee shall make absentee ballots available for delivery by mail, fax, and email. The Election Committee will accept absentee ballots by these same

means. It will also prepare a secure ballot box within the tribal government complex where individuals may drop off their ballots in-person.

- (E) Absentee ballots shall not be tabulated until ballots are counted on the day of the election after the polls have been closed. The absentee ballots shall be stored in a secure location until they are opened for tabulation after the polls have closed. The Election Committee will make every effort to safeguard the integrity and confidentiality of the absentee ballots until the ballots are counted. Absentee ballots must be received by or on Election Day to be tabulated towards the election.
  - (i) The Election Committee shall record the names of the voters that have voted by absentee ballot on the morning before the polls open. The names will be provided to the Election Committee to ensure that individuals that voted by absentee ballot do not also vote in-person.

### **Section 10.3 – Forms and Instructions**

The Election Committee will create necessary forms and instructional materials to aid Eligible Voters in casting their ballots.

### **Section 10.4 – Dissemination of Election Materials**

The Election Committee shall post election materials on the Tribe’s website and its social media pages. The Election Committee shall also have hard copies available at the tribal governmental building for pickup. Finally, the Election Committee will mail, fax, or email election materials to any Qualified Voter that makes such a request.

## **Section 11 – ELECTION PROCEDURES**

### **Section 11.1 – Notice of Elections**

The Election Committee shall provide a notice of all regular elections ninety (90) calendar days before the day of the election. The notice of elections shall provide the date, polling places, absentee ballot deadlines, and the time and purpose for holding tribal elections. The notice of an election shall be posted in a publicly visible location at the Tribe’s government building and may also be posted on the Tribe’s website and its social media pages.

### **Section 11.2 – Polling Places and Time**

- (A) The polling location(s) for the tribal elections shall be determined by the Election Committee. Each designated polling location shall be identified in the Notice of Elections. Each location must have at least one member of the Election Committee staffing it.
- (B) The polls shall be opened promptly at 10:00 a.m. and shall close at 5:00 p.m. All voters who are physically in line at the polling place as of 5:00 p.m. shall be



allowed to cast a vote. However, no voter may join the line after 5:00 p.m.

- (C) Consumption of alcohol, marijuana, narcotics, and other intoxicants at the polls is prohibited.

### **Section 11.3 – Assistance to Voters with Disabilities**

If a voter declares that they are unable to mark their ballot due to a physical disability, illiteracy, or other special circumstance, the voter may have the assistance of an Election Committee member or another person of the voter's choosing, excluding candidates.

### **Section 11.4 – Spoiled Ballots**

If any voter spoils a ballot, they may obtain another ballot upon returning the spoiled ballot. A member of the Election Committee must mark the ballot as "Spoiled" and sign his/her name on the back of the ballot. Spoiled ballots shall be placed in an envelope marked "Spoiled Ballots" and retained with all other ballots.

### **Section 11.5 – Tabulation of Ballots**

- (A) The tabulation of the ballots shall be open to all Little Shell tribal members in a public location to be determined by the Election Committee. The tabulation shall also be recorded and may be streamed live to the Tribe's social media accounts. Any person causing a disturbance during the tabulation shall be immediately removed from the location. The tabulation of ballots shall proceed with the absentee ballots and then the ballots cast in-person.
- (B) The name of each candidate voted for shall be read aloud by the Election Committee Chair and at least three individuals designated by the Election Committee Chair shall tally the votes on separate tally sheets. At the conclusion of the count, all tally sheets must reflect the same counts for each candidate. If the tally sheets do not agree, the Election Committee shall conduct an automatic recount for the positions that do not agree.
- (C) Ballots must clearly show the voter's intent in selecting a candidate by either a cross (X), check (✓), or any other clearly distinguishable marking selecting the candidate. If the ballot was not properly marked for a certain election, votes for other positions on the ballot that have been properly marked must be counted.
- (D) Once all the tabulation has been completed, all ballots must be secured in a locked container and returned sealed to the Tribal government building immediately following the counting of the ballots.

### **Section 11.6 – Handling of Absentee Ballots**

- (A) The Election Committee shall ensure that any individual that requested and casted

an absentee ballot will not be allowed to cast a ballot in-person. Knowingly casting two ballots constitutes voter fraud.

- (B) If the Election Committee discovers duplicate ballots by the same voter, such as an in-person ballot and an absentee ballot, when it prepares to tabulate ballots then both ballots will be rejected for a violation of tribal law.

### **Section 11.7 – Tiebreaker**

If two or more persons have an equal number of votes for a particular position, the Election Committee shall proceed publicly to determine by lot which candidate shall be declared elected. If two individuals have an equal number of votes, then the Election Committee Chairperson, or their designee, shall flip a coin to determine the winner. The candidate whose last name comes first alphabetically shall call the toss. If more than two individuals have an equal number of votes for the same position then the Election Committee Chairperson, or their designee, shall draw lots and the candidates shall pick alphabetically based on their last names.

### **Section 11.8 – Election Committee Certification of Election Results**

After no more than five (5) days after the completion of ballot tabulation, the Election Committee shall convene for the purposes of preparing a statement certifying to the conduct of the election and the correctness of the votes tabulated for each candidate. The Election Committee shall prepare a report summarizing the election results and present the report to the Tribal Council at the next Council meeting.

## **Section 12 – ACCEPTANCE OF CERTIFICATION AND INAUGURATION**

### **Section 12.1 – Certification of Election Results**

The Election Committee shall present a report summarizing the election results and its certification of the election at the Tribal Council’s next scheduled meeting. The Tribal Council shall accept that report and ratify it by resolution unless an active appeal is pending. If an appeal is pending the report shall be delayed until the appeal is resolved under Section 13.

### **Section 12.2 – Seating of Newly Elected Tribal Council**

Newly elected members of Tribal Council shall be inaugurated the first regularly scheduled Tribal Council meeting in the January following the tribal election.

### **Section 12.3 – Oath of Office**

The Election Committee Chairperson, or their designated Election Committee Member, shall administer the oath of office to all duly elected Tribal Council members. The following oath of office shall be administered:

“I, \_\_\_\_\_, do solemnly swear and affirm that I will support, obey, and

defend the Constitution of the Little Shell Tribe of Chippewa Indians; that I will faithfully and impartially discharge the duties of my office to the best of my ability; that I will promote, protect the best interests of the Little Shell Tribe and its tribal members in accordance with its laws.”

### **Section 13 – ELECTION APPEAL PROCEDURES**

#### **Section 13.1 – Disqualified Voters**

If the Election Committee determines that a voter trying to cast a ballot, or who has cast a ballot, is ineligible to vote, that voter’s ballot shall be placed aside in a special envelope and shall not be tabulated. The Election Committee may disqualify a voter attempting to cast an absentee ballot or an in-person ballot if the voter is not an Eligible Voter.

- (A) If a disqualified voter believes they were disqualified erroneously, then the disqualified voter may appeal to the Elder Executive Committee. The disqualified voter must request/file their appeal on the day of the tribal election. No late appeals will be permitted.
  - (i) The Elder Executive Committee will take up the appeal within five (5) days and issue an opinion on whether the voter was an Eligible Voter.
  - (ii) If the voter is determined to be an Eligible Voter, their vote will be tabulated with the election results.

#### **Section 13.2 – Ineligible Voters**

Any Eligible Voter that believes ineligible voters cast ballots in the tribal election may make a formal complaint to the Election Committee requesting that it investigate.

- (A) The Election Committee will investigate the claim and respond in writing to the complainant. If it is determined that an ineligible voter cast a ballot, then that ballot shall be set aside and not tabulated.
  - (i) If a voter is determined to be ineligible, then they may file an appeal with the Elder Executive Committee upon receipt of the Election Committee’s determination of their ineligibility. The Elder Committee shall determine the merits of the claim pursuant to Section 13.1 (A)(i)-(ii).
- (B) It is unlawful for an Eligible Voter to knowingly make claims that Eligible Voters are ineligible or to utilize Section 13.2 to harass an Eligible Voter.

#### **Section 13.3 – Ballot Recount Procedures**

- (A) If the vote count for any election position is within five (5) votes, separating the winner from the loser, then an automatic recount of that position shall immediately

occur.

- (B) A ballot recount may occur as a remedy to a violation of the Election Code pursuant to Section 13.4.

**Section 13.4 – Complaints for Violation of Election Code**

- (A) Any Qualified Member that was a candidate in an election that believes a violation of the Election Code occurred during a tribal election may bring a good faith claim alleging the violations.
- (B) The complaint must include the following information:
  - (i) Complainant’s name, address, telephone number and email address (if any);
  - (ii) Sworn notarized affidavit detailing with specificity the violations alleged;
  - (iii) The election in which the complainant was a candidate;
  - (iv) Code provision(s) that were violated;
  - (v) Identity of the individual(s) involved in the alleged violation(s);
  - (vi) Date and time of the alleged violation(s);
  - (vii) Location of alleged violation(s);
  - (viii) Estimated number of votes affected by the alleged violation(s);
  - (ix) Name and telephone number of any witnesses; and
  - (x) A non-refundable filing fee of \$500.
- (C) The complaint must be made to the Election Committee within five (5) days of the tribal election. The Election Committee shall investigate all timely filed claims.
  - (i) The Election Committee shall give the winning candidates three (3) business days notice after it receives a complaint so that the winning candidates may choose to submit evidence or argument.
  - (ii) The Election Committee shall endeavor to finish its review of allegations in the complaint within ten (10) days after the deadline for winning candidates to submit evidence or argument in Section 13.3(C)(i).
  - (iii) The Election Committee can, in its discretion, request a hearing to consider evidence and argument from both sides of the dispute. The hearing must take

place within fifteen (15) days of the original filing of the complaint in Section 13.3 (C). The hearing shall be limited to one hour

- (D) The following guidelines shall be utilized by the Election Committee when considering complaints submitted. The Election Committee shall not order a recount of an election or that an election be voided in response to a complaint unless the complainant clearly demonstrated by a preponderance of the evidence that:
  - (i) a violation(s) of the Election Code occurred; and
  - (ii) said violation(s) resulted in a strong likelihood of affecting the outcome of the election.
- (E) Following the receipt and review of a properly executed complaint, and such other evidence before the Election Committee, the Election Committee shall issue findings:
  - (i) To dismiss the appeal;
  - (ii) To acknowledge the merit of the appeal but to reaffirm the election in question because the violation did not have a strong likelihood of affecting the outcome of the election; or
  - (iii) To acknowledge the merit of the appeal and to void the election in question in whole or in part depending on the facts of the situation.
- (F) The Election Committee's decision may be appealed following the procedures of Section 13.5.
- (G) In the event that the Election Committee voids the tribal election in whole or in part as provided under Section 13.4 (E)(iii), and no appeal has been timely filed, the Election Committee shall set a special election to fill the positions affected by the voiding of the election in question. All requirements governing special elections in Section 14.2 shall control this process.

### **Section 13.5 – Appeal of Election Committee Decisions**

A decision under Section 13.4 may be appealed by a party to the decision. A timely appeal must be filed within five (5) days of the Election Committee's decision and only timely appeals will be considered. The request for the appeal shall be submitted to the Election Committee who shall immediately forward it to the Little Shell Elder Executive Committee. The appeal must identify in writing the reasons why the appellant believes the Election Committee's decision was in error.

- (A) The Elder Executive Committee will schedule a hearing, which may occur by phone, for the appeal of the Election Committee's decision.

- (B) The Elder Executive Committee will schedule the hearing within two (2) weeks of its receipt of the appeal.
- (C) The appellant will be afforded the opportunity during the hearing to present the reasons why they believe the Election Committee's decision was in error. Their presentation may not be longer than thirty (30) minutes. The Elder Executive Committee may ask questions during the hearing.
  - (i) Only the appellant may participate or present during the appeal. No other person will be allowed to speak on the appellants behalf.
- (D) The Elder Executive Committee shall also invite the appellee and the Election Committee to present on why they believe the decision was not in error.
  - (i) The Election Committee and the appellee/s may each present for thirty (30) minutes during which time the Elder Executive Committee may ask questions.
- (E) Following the hearing the Elder Executive Committee shall consider the reasoning of the Election Committee's decision and the arguments raised by the appellant and the appellee. The Elder Executive Committee will then render a decision, by a majority vote, on whether the Election Committee's decision shall stand or be overturned. The Elder Executive Committee's decision shall be rendered in conformance with Section 13.4(i)-(iii).
  - (i) The Elder Executive Committee shall not have discretion to deviate from the Little Shell Election Code and the Little Shell Tribal Constitution.

## **Section 14 – TRIBAL COUNCIL VACANCIES**

### **Section 14.1 – Filling Vacancies on Tribal Council**

If a member of the Tribal Council shall die, resign permanently, leave his or her position or not be able to represent the position in the best interest of the Tribe, or be found guilty of a felony or misdemeanor involving dishonesty in any Indian, State, or Federal Court, the Executive Board, by a majority vote, shall declare the position vacant and call a special election to fill the vacancy.

### **Section 14.2 – Timing of the Special Election**

- (A) The Election Committee shall provide a notice of the special election within three (3) weeks of the vacancy, except in instances where there is less than nine (9) months left in the vacant term because no special election will be held pursuant to Section 4.3.
- (B) The Election Committee shall provide three weeks for candidates to submit their required candidate materials under Section 7.1. The Election Committee shall

determine within one week of receipt of the materials if the candidate is a Qualified Member.

- (C) The Election Committee shall hold the special election on the first Saturday that comes six (6) weeks after the notice of the special election was published.

### **Section 14.3 – Election Committee**

The Election Committee for special elections shall consist of the Election Committee from the election immediately preceding the special election. If any Election Committee member from that committee is unable or unwilling to serve, then a new member(s) shall be appointed pursuant to Section 5.2 (B).

## **Section 15 – RECALL PETITIONS & RECALL ELECTIONS**

### **Section 15.1 – Recall Petition Requirements**

- (A) Qualified Voters may submit a petition requesting the recall of the Tribal Council, or a member of the Tribal Council, to the Election Committee.
- (B) Recall petitions must include the following information:
  - (i) The identity of five (5) main sponsors (all of whom must be Eligible Voters) for whom all correspondence should be directed;
  - (ii) The date on which the recall petition began;
  - (iii) The identity of the Tribal Council member(s) that the petition seeks to recall from office;
  - (iv) A list of credible accusations for which the sponsors seek the redress of removal.
    - (a) The five (5) main sponsors of the recall petition must submit a signed and notarized affidavit attesting to the credible accusations.
    - (b) The burden of proof is on the five (5) main sponsors.
- (C) The Election Committee shall certify the recall petition if all the criteria in Section 15.1 (B) (i)-(iv) are met.

### **Section 15.2 – Threshold for a Successful Recall Petition**

- (A) The recall petition must include a threshold of at least 60% of Qualified Voters to be considered ripe.

- (i) The petition must include the printed name, signature, and Little Shell enrollment number of each Qualified Voter that wishes to support the recall.
- (ii) If any of the information is missing or inaccurate in Section 15.1(C)(i) that name shall not count towards meeting the recall threshold.

**Section 15.3 – Timeframe to Gather Recall Signatures**

The sponsors of recall petitions have three (3) months after the date that the Election Committee certified the recall petition to reach their threshold for recall in Section 15.2. If the effort has not obtained the prerequisite support, then the recall effort will have lapsed, and it will become moot.

**Section 15.2 – Review of Petition by Election Committee**

- (A) The Election Committee shall verify the timeliness of any completed recall petition and ensure that it was produced within the time limitations of Section 15.3. If the recall petition is not timely, then the Election Committee will dismiss it and render the effort moot.
- (B) If the recall petition is timely, then the Little Shell Office of the Attorney General shall select a random sample of no less than ten (10) percent of the names on the recall petition to audit and verify that they belong to Little Shell tribal members and that the Little Shell tribal members applied their signatures to the effort. The Little Shell Office of the Attorney General shall report its findings to the Election Committee. The Election Committee may dismiss the recall petition if there is evidence of fraud or material inaccuracies.
  - (i) The Little Shell Office of the Attorney General has one (1) month to conduct this audit.
- (C) The Election Committee shall approve the recall petition if it was obtained in a timely manner, the requisite signature threshold has been met, and there is no evidence of fraud.

**Section 15.3 – Recall Voting Procedures**

- (A) If the Election Committee approves the recall petition pursuant to Section 15.2 (C), then it shall schedule an election on the first Saturday that comes ninety (90) days after the date on which the Election Committee formally approved the recall petition.
  - (i) The recalled Tribal Council member(s) will continue to serve on the Tribal Council until the conclusion of the election.
  - (ii) Recalled Tribal Council member(s) are eligible to run in the election.



- (B) The Election Committee shall accept prospective candidate applications and supporting material for thirty (30) days after the announcement. The Election Committee will utilize the same process in Section 8 to approve or disqualify candidates.
- (C) The recall election shall follow the procedures established in Sections 9, 10, 11, and 13.
  - (i) The ballots deviate from Section 10.1(D) in that incumbents will be placed at the top of each position and identified with an asterisk (\*).

#### **Section 15.4 – Acceptance of Certification and Inauguration**

- (A) The Election Committee shall present its report summarizing the recall election results and its certification of the election at the Tribal Council’s next scheduled meeting. The Tribal Council shall accept that report and ratify it by resolution unless an active appeal is pending. If an appeal is pending the report shall be delayed until the appeal is resolved under Section 13.
  - (i) The Tribal Council shall not delay a regularly scheduled meeting to frustrate the ratification of the election unless a valid appeal is pending.
- (B) Newly elected members of the Tribal Council shall be inaugurated immediately after the Tribal Council ratifies the election result by formal resolution.
- (C) The Election Committee shall administer the oath of office pursuant to Section 12.3.

#### **Section 16 – NO FEDERAL OR STATE JURISDICTION**

##### **Section 16 – No Federal or State Jurisdiction**

Nothing in this Code provides any jurisdiction to the federal, state, or local governments to adjudicate any issues arising from Little Shell tribal elections. Any controversy that arises will be solely adjudicated by the Little Shell Tribe.