

Fort Belknap Indian Community

ORDINANCE NO. 10 28 11 As amended 12/95, 4/9/97, 9/26/97, 6/29/01, 7/11/01 & 6/4/03, 5/02/05, 8/27/09, 9/30/09 & 10/28/11

WHEREAS, the Fort Belknap Indian Community Council is the governing body of the Gros Ventre and Assiniboine Tribes of the Fort Belknap Indian Community, Fort Belknap Indian Reservation, Montana, by the authority of the Constitution and By-Laws of the Fort Belknap Tribes approved on the 13th day of December 1935, and

WHEREAS, under the Constitution and By-Laws of the Fort Belknap Indian Community, the Community Council is charged with the duty of protecting the health, security and general welfare of the Fort Belknap Indian Community, and

AN ORDINANCE PROVIDING FOR ELECTIONS ON THE FORT BELKNAP INDIAN RESERVATION

WHEREAS, the Fort Belknap Community Council is responsible for adopting reasonable procedures and provisions for tribal elections, and

WHEREAS, the Council has reviewed the Election Ordinance to determine necessary changes after discussion and input from the Election Committee and interested parties, and

WHEREAS, the changes are set forth in the following Ordinance and appear to be necessary and proper to provide for an orderly process to conduct elections,

NOW, THEREFORE BE IT ORDAINED, RESOLVED AND DECREED, that the Fort Belknap Community Council does hereby adopt and approve the following Ordinance, as amended, providing for Elections on the Fort Belknap Indian Reservation:

SECTION 1: GENERAL

(A) **Established Districts.** In order that the intent of the Constitution be fulfilled regarding equal representation on the Community Council, the following representation districts are hereby established:

RIVER ASSINIBOINE DISTRICT : All of that area of the Fort Belknap Indian Reservation North of the township line dividing T. 28 N., and T. 29 N.

MOUNTAIN ASSINIBOINE DISTRICT : All of that area of the Fort Belknap Indian Reservation South of the township line dividing T. 28N., and T. 29 N.

RIVER GROS VENTRE DISTRICT: All of that area of the Fort Belknap Indian Reservation North of the township line dividing T. 28 N., and T. 29 N.

MOUNTAIN GROS VENTRE DISTRICT: All of that area of the Fort Belknap Indian Reservation South of the township line dividing T. 28N., and T. 29 N.

PROVIDED, these boundary descriptions shall be reviewed and modified by the Council, as necessary, prior to July 1 of each election year . Said apportionment shall stand until the next election year and apportionment required thereunder.

(B) **Apportionment.** Prior to July 1 of each election year , the Council Secretary and the Election Committee shall furnish to the Council a numerical census of all members of the two tribes residing on reservation, together with their location, along with a numerical census of members of the two tribes living off reservation, designating their home district based on guidelines in this ordinance, so that the Council may, to the best of its ability, determine the boundary lines of these four districts so as to equitably apportion the Council representatives among the population. For purposes of apportionment, the placement of eligible voters shall be presumed an equitable apportionment of the entire member population.

(C) **Enumeration Process.** The Executive Officers of the Council together with the Election Committee shall utilize the residency of the membership, in the thirty (30) days next preceding July 1 of each election year, to assist the Secretary and the Election Committee in preparing a numerical census. Said officers shall, to the best of their ability, determine who resides in each District at that time. Residency shall be presumed if the voter has lived in a District for 90 days at the time of determination, or if an off-reservation resident, shall be assigned a Reservation District under the Secretary's/Election Committee's census. The census shall include a map placing individuals within District boundaries to the best of the current knowledge of the Executive Officers. An individual may have their residency changed by filing no less than three (3) affidavits with the Secretary showing that they actually live elsewhere. Such affidavits must be in proper form, executed by the maker before a notary or other official, and be submitted in proper form in a timely manner for the enumeration to be

completed by July. The Secretary shall make recommendations to the Council on acceptance or rejection of affidavits and the overall enumeration. Once accepted by the Council, a numerical census shall be presumed correct, and shall be final, until the next census. There shall be no appeal from such a determination. Should new enrollees be added to the rolls after the enumeration is established, the Committee shall be authorized to add their names to the enumeration in the District in which they live, or if residing off-reservation, to assign them to a district, keeping the enumeration balanced, to the greatest extent possible. Amended 6/29/01

D. ASSIGNMENT OF OFF-RESERVATION VOTERS. The Council shall designate a Reservation District, for voting purposes, for each eligible off-reservation voter. Effective for the election in 1997, and thereafter, the process shall begin with the previous election's assignments of off-reservation voters, remove those who have moved on, deceased members shall be removed from the list, those individuals having stated a preference for placement in one district or another shall be placed as requested, and new off-reservation voters (those having just turned eighteen (18) and those having moved off (unless otherwise having stated a preference), shall be used to equalize the districts, so that when added to the resident members of that Tribe residing in that District, the two Districts of the Tribe are equal in total number, or within five (5) voters. (approximately 1/4 of 1% of all voters of that Tribe). In order to consider off-reservation voter preference for placement requests, such requests must be received at the Tribal Office at Fort Belknap Agency, no later than June 1, of the election year. No changes shall be considered for special elections. Should such procedure fail to enable equalization within five (5) voters in the two districts of a Tribe, then the following procedure shall be utilized: After placing off-reservation voters who have stated a preference within the deadline, off-reservation voters shall be assigned a voting district at random through a process whereby all other off-reservation voter names from the Tribe are placed into separate bins, boxes or other collection devices, mixed, and then selected for each District so that, when added to the resident members of that Tribe residing in that District, the two Districts of the Tribe are equal in total number or within five (5) voters. (approximately 1/4 of 1% of all voters of that Tribe). For the purpose of designating a polling place for each off-reservation member, the number of off-reservation voters assigned to each District shall be split evenly in a random fashion and assigned to a polling place. The Election Committee shall recommend needed changes in this process to the Council for future review. (Amended May 2, 2005, changed May 15 deadline for request to change voter preference to June 1)

E. RESIDENCY OF CANDIDATES. The residency of candidates is an important factor in their eligibility to run for Council seats. A residence is defined as an individual's home where they regularly return when not working, attending school or traveling. An individual can have only one (1) residence, and for the purposes of this ordinance, a candidate, to be eligible for filing in a District as a resident, must have resided in that District for at least one (1) year at the time of their filing for that office. Placement of reservation residents in a district for purposes of enumeration shall be presumptive proof of residency for candidacy, unless the one (1) year term has not been met.

F. RESIDENCE OF VOTERS. For purposes of determining the residence of a voter for purposes of this code, the enumeration process shall utilize the following: A residence is defined as an individual's home where they regularly return when not working, attending school or traveling. An individual can have only one (1) residence, and for the purposes of this ordinance, a voter, must have resided at a given location for at least ninety (90) days at the time of the time of enumeration. Placement of resident voters in a district for purposes of enumeration, once the enumeration is completed, shall control for that election.

G. Campaigning Guidelines For Candidates And Supporters (New Section)

(1). The intent of these guidelines is to encourage fair and open campaigning by candidates and their supporters on a level playing field; foster opportunities for candidates to educate the electors about the issues and about their experiences and views; keep costs down; and maintain standards for elections to honor the people participating and the process. Amended 6/29/01

a. Letters: Election "letters" include letters, postcards, and faxes, asking for a member's election support. Handouts may be made available at meetings. Each candidate/supporter generates his/her own "letters" with his/her own personal resources. No attempt shall be made to state or infer Tribal Council or Election Committee support for a candidate. Individuals may be subject to prosecution for untrue statements or misrepresentations made in Letters or other communications. Candidates are encouraged to send a copy of these guidelines to members they ask for support. Amended 6/29/01

b. E-mail: E-mail used for campaign purposes must comply with the intent of the guidelines with regard to content. There are no limits on the number of campaign messages sent by e-mail. Obtaining e-mail addresses is the responsibility of the candidates and their supporters; such addresses may not be as readily available as mailing addresses. Amended 6/29/01

c. Compliance: Each candidate shall receive a copy of these guidelines and a statement to sign, certifying that he/she has read the guidelines; promises to abide by them; will immediately report any deviations of which he/she becomes aware to the Election Committee; and will notify and try to correct any supporter upon learning of an actual or potential deviation. The Election Committee shall refer potential violations of this Code to the Tribal Police for investigation and prosecution. Violations which are raised during a protest or challenge shall be heard and evaluated by the Election Committee on the merits thereof. Amended 6/29/01

d. Offense defined: It shall be a criminal offense for an individual to purposely or knowingly or negligently attempt to influence the outcome of a Tribal election by disseminating to one or more individual, written statements which are a material misrepresentation or untrue information about a candidate, or their immediate family, as otherwise defined in this code, if said individual knows or

should have known that such was a misrepresentation and untrue. That a written statement is an attempt to influence the outcome of a Tribal election shall be presumed if it is disseminated after July 1 of an election year and before the final general election of that year. Whether something is "material" shall be a question of fact for the finder (s) of fact. However, it is intended that typos or minor, non-substantive facts which are incorrect be excluded from consideration as "material". A violation of this section shall be punished by a term in jail of up to one (1) year and/or a fine of up to \$5000, and restitution shall be ordered for any damages claimed as a result of the offender's actions. Amended 6/29/01

e. Violations of campaign guidelines before the Election Committee. If a protest and/or challenge alleges a violation of campaigning guidelines, the violation must be specifically stated, and to consider recommending a new election, the Election Committee must find a material misrepresentation and/or untruth, and an adverse impact on the election sufficient to have changed the outcome of the election. The Committee may take notice of proceedings in the Tribal Court, and the Court may take judicial notice of proceedings before the Committee. Amended 6/29/01

H. Release of elector names and addresses to candidates. The Election Committee shall release lists of eligible electors from each district(s) at the time a candidate files, at no cost to the candidate. The Election Committee shall release only those elector addresses where the elector has authorized release of their address. Should a candidate desire other addresses, it shall be solely up to said candidate to obtain such addresses. Amended 6/29/01

I. Guidelines For Those Holding Appointed Or Elected Positions

(1). Money/resources: Tribal Council funds or services cannot be used to endorse, support or promote any candidate. However, subject to limitation of available funds, Tribal Council funds may be used to support the expenses of candidates invited to participate in candidate forums, or to fund publications summarizing the candidates. All candidates shall have equal opportunity to participate in such opportunities, should they arise. Candidates/supporters who hold appointed or elected Tribal Council positions may refer to their titles in the body of the letters, but if they choose to sign the letter, they may not do so over their Tribal Council organizational title, and cannot infer or state that the Tribal Council or one of its subordinate bodies or businesses endorses a candidate, slate or cause. Amended 6/29/01

(2). Newsletters: Tribal Council newsletters may announce as news items of up to 250 words per candidate the candidacy of an individual, with pictures. Editorial endorsement of candidates is prohibited as are letters to the Editor in support of or opposition to candidates. Newsletters may print statements or other materials by or about a candidate only if they give equal opportunity to opposing candidates. Amended 6/29/01

SECTION 2- ELEC DNS

(A.) A primary election for membership on the Community Council shall be held on the first Tuesday in October of each second year, beginning in 2001, and the general elections shall be held on the first Tuesday in November of the same year, except for special elections to fill vacancies, which shall be called by the President of the Council, in a timely manner to fill such positions, in accordance with the procedures set forth herein. Amended 7/11/01.

(B.) Under applicable provisions of the Constitution, the Council shall call a recall election, when required under the Constitution, for a date certain, and require the Election Committee to conduct such election, under the provisions of this Code, designating the form and language of the ballot.

SECTION 3-QUALIFIED VOTERS

Any member of the Community of either sex, 18 years of age or over, is entitled to vote in any election when he or she presents himself or herself at any polling place within the District they are eligible to vote or vote absentee under the provisions of this Ordinance.

SECTION 4-IDENTIFYING DISTRICTS AND POLLS

(A) **Identifying Eligible Voters--Polling place.** At the time of the enumeration, or as soon thereafter as time allows, a list of eligible voters shall be prepared for each election. Said list shall identify the name, address, Tribe, District and voting polling place for each voter. In the enumeration process, each voter shall have a polling place designated to them for the purposes of this section, with zip code or other appropriate means utilized to randomly assign voters to each polling place. Each polling place shall have a list of eligible voters, and the judges of such polling place shall provide ballots only to those members of each Tribe registered to vote in that District. The purpose of identifying a voting poll for each voter is to provide a verification process in the canvassing of votes. Unless voting absentee, each voter shall have the right to appear and vote at any polling place in their designated District, regardless of such designation.

(B) **Voting out of polling place.** If a voter appears at a polling place other than that officially designated, but within their designated district, he/she shall be allowed to vote as provided in Article VII of the Tribal Constitution. Upon completion of his/her ballot, it shall be received by an Election Judge, and, maintaining the secrecy of the ballot, shall be placed in an envelope, sealed, and the individual's name written thereon. All such envelopes shall be kept in an envelope designated for such ballots.

(C) **Verifying votes.** ~~After the polls~~ *Before the polls close, leaving enough time to process each ballot,* the Election Judges in the respective districts shall communicate with one another to verify that each individual voting out of district has voted only in one district. After verifying such for each voter, the envelope containing his/her ballot shall be opened and the ballot *processed if electronic tallying is utilized, or* dropped in the

unopened ballot t *if hand counting is utilized*, again ma. *aining* anonymity. Should it be found that an individual has voted in more than one district, their ballots, as such can be identified, shall be pulled and placed with other ballots to be challenged. After completion of this verification process in each polling place, the Election Judges shall immediately proceed to canvassing the votes as provided in Section 6 (E) of this Ordinance. (Amended 9/30/09)

SECTION 5-ELECTION COMMITTEE

(A) **Establishment of Committee** The Community Council hereby creates an Election Committee to oversee all elections on the Fort Belknap Indian Reservation.

(B) **Appointment of Judges.** The Community Council shall meet and appoint the Chief Judges and the other judges to serve at each polling place no later than the regular Council meeting in the August immediately preceding the Primary election every two years. Said judges shall serve for a two (2) year period, or until the next set of judges are appointed by the Council. To serve as an election judge, an individual must meet the following criteria:

- (1) Be at least twenty-five (25) years of age;
- (2) Be an enrolled member of the Gros Ventre or Assiniboine Tribes of Fort Belknap;
- (3) Reside in the District in which they are proposed to serve; and
- (4) Be able to read and write and possess at least a high school diploma or equivalent thereto; and
- (5) Have no member of their immediate household running for office, and if related to a candidate for office, certify that such relationship is by third degree or higher.
- (6) Preference shall be given to those individuals having served as election judges previously. Amended 7/11/01

(C) **Committee Organization.** The Election Committee shall be made up of the Chief Judge of each polling place. It shall serve under the general supervision of the Council Officers for administrative functions, however, in effecting its duties, it shall be autonomous in its decision-making functions. This supervision in no way changes the appeal language of this Ordinance. The Election Committee shall periodically meet to consider relevant procedures and issues affecting pending elections. Said Committee shall, at least once each year, organize, appointing a Chairman and Secretary. The Chairman shall be responsible for conducting all meetings, and shall not vote unless such is needed to break a tie. The Secretary shall be responsible for maintaining records of all meetings.

(D) **Duties of the Election Committee**

(1) **Notice of election.** The President of the Community Council shall be responsible for issuing all writs for regular and special elections, setting dates, places of polling and causing due notices to be posted. As necessary, the Election Committee shall assist the President. Notices of the date of the election shall give

notice to the qualified voters of the date, time, and places, including, but not limited to, posting of the notice in the Tribal Offices, the Bureau of Indian Affairs Office, and post offices in Hays, Lodgepole, Dodson and Harlem. The notice of election shall notify intended candidates for the Council to file a certificate of intention of candidacy for election of membership of the Council at least sixty (60) days prior to the election date. The notice of election shall be posted in the places above-designated for not less than seventy-five (75) days .
Amended 7/11/01

(2) Certificate of Intent of Candidates for Office.

(a) All nominating petitions for candidates shall be numbered and released to candidates when they have executed an acknowledgement of receipt of a copy of the Election Ordinance and an enumeration list of eligible voters from their applicable District or Tribe. Candidates are cautioned to check signatures against the lists of eligible voters to be certain they have sufficient signatures from persons eligible to sign for their nomination. To avoid potential problems, candidates are asked to check signatures against the lists, and shall be required to return their nominating petitions themselves, verifying that they have checked the signatures against the lists provided.
Amended 6/29/01

(b) A certificate of intention to be a candidate for election to membership on the Community Council shall be filed on a form prescribed by the Council. Candidates for the Mountain Gros Ventre District, the River Gros Ventre District, the Assiniboine Mountain District and the Assiniboine River District, each of whom shall be required to reside in their District and be elected by members of their specific Tribe, from of designated in that same District, shall have their nominating Petitions endorsed by five (5) duly qualified electors of the same Tribe and residents of the same District of the candidate, other than immediate relatives.

Candidates for the one (1) Gros Ventre at-large representative seat elected by members of the Gros Ventre Tribe and the one (1) Assiniboine at-large representative seat elected by members of the Assiniboine Tribe, as established by the Constitution, shall have their nominating Petitions endorsed by five (5) duly qualified electors of the same Tribe, other than immediate relatives .

Candidates for the one (1) Gros Ventre at-large representative seat elected by members of both Tribes and the one (1) Assiniboine at-large representative seat elected by members of both Tribes, as established by the Constitution, shall have their nominating Petitions endorsed by five (5) duly qualified electors of either Tribe, other than immediate relatives .

Each candidate for at-large seats on the Council must reside on the reservation. The certificate of intention of each candidate must include a

statement of residency in the district within which . . . or she wishes to run for office, if applicable , a statement of tribal affiliation for such office, together with a designation of the specific seat for which the individual is filing. Each such petition/certificate of intention must be filed at least sixty (60) days prior to the primary election date with the Secretary, or with staff designated for such purpose by the Secretary. A filing fee of \$10.00 and an administrative fee of **\$240.00** shall accompany each certificate. Such fees shall be nonrefundable. ~~returned should the candidate be found ineligible to be a candidate.~~ Amended 7/11/01; 5/2/05

(c) Candidates for the offices of President and Vice-President of the Council must file and run together as a designated team, identified in their public declaration and certificate of intention to be candidates. Only teams of candidates for these offices will be considered, and each team must have one member from each tribe, with each meeting all other qualifications. A certificate of intention to be candidates for election to the Presidency and Vice-Presidency of the Community Council shall be filed on a form prescribed by the Council, endorsed by five (5) duly qualified electors of each Tribe, other than immediate relatives, and filed at least sixty (60) days prior to the primary election date with the Secretary. The certificate of such intention must include a statement of reservation residency, and a statement of affiliation of one member of the team as a Gros Ventre and one as an Assiniboine. Filing fees of \$10.00 for each candidate and an administrative fee of **\$490.00** shall accompany each certificate. Such fees shall be nonrefundable. ~~returned should the candidate be found ineligible to be a candidate.~~ Amended 7/11/01; 5/02/05

(d) Upon receipt of a certificate of intent of the candidate for office, the Secretary shall, not less than thirty (30) days prior to the date of the primary election, post the names of the filing candidates in the same places noted herein for the Notice of Election. Said Secretary shall then refer the names to the Election Committee, which shall determine the qualification of candidates as required by Article 2 of the By-Laws.

In reviewing the eligibility of a candidate, said Committee shall look to the Constitution of the Fort Belknap Indian Community, and verify that each of the qualifications set forth therein are met. To aid in such review, each candidate shall sign an oath specifically representing that he/she meets each and every qualification, noting all facts which may be subject to interpretation.

A candidate found to be ineligible shall be notified of such in a written statement setting forth the reasons therefore, by certified mail and his/her filing fees shall be returned. Such an individual may immediately petition the Committee for reconsideration, and the Committee shall review such, determining the validity of such, no later than twenty-five (25) days before the election. The names of all candidates found eligible to hold office shall be

placed on ballot for the election. The decision of the Election Committee on the eligibility of a candidate shall be final.

The Election Committee shall provide a certified listing of qualified candidates for office which shall be posted in the same manner as notices of election, twenty-five (25) days before election. Amended 7/11/01

(e) Candidates with Criminal Convictions. As set forth in Article II of the By-laws, Fort Belknap Indian Community, Tribal Constitution, no individual may represent the Community on the Council ".....unless he.....has never been convicted of a major crime." For purposes of this Election Code, this shall mean a felony conviction in any jurisdiction. Conviction shall mean a final adjudication of guilt that has not been deferred and dismissed by a court having jurisdiction thereof. Amended 6/29/01

(f) Candidates may only file for one seat under a specific Writ of Election. This limitation shall be strictly enforced, inasmuch as an individual can only serve in one capacity, and subsequent special elections to fill vacant seats are expensive. This rule shall be construed to be in the best interest of the membership. The Secretary or his/her delegate shall not accept more than one Certificate of Intention to be a Candidate from an individual. New Section, 6/4/03

(3) Ballots. The Election Committee shall prepare ballots, which will be the only ballots used in the election, and which shall list the candidates submitted to the eligible voters for each position on a separate ballot. Referendum measures shall be on a separate ballot.

SECTION 6 - ABSENTEE BALLOTS.

A non-resident, absent or infirm voter, otherwise qualified to vote, who will be absent from the Fort Belknap Indian Reservation on election day, or otherwise cannot present himself or herself at a polling place, may vote as hereinafter provided.

(A) Time for voting absentee. At any time within the period beginning at 8:00 A.M., twenty-five (25) days next preceding a referendum election and twenty (20) days next preceding an election for office, and ending at 5:00 P.M. the day next preceding the election, an elector expecting to be absent may request in writing, through the mail or in person, leaving adequate time for mail/other delivery, of the Election Committee, and apply for an official ballot to be voted at such election as an absent voter's ballot. The Election Committee shall prescribe the form of application, which shall be signed by the applicant. Absentee ballots shall be received and counted for an election through the close of balloting on election day, provided, those received on election day shall be kept separate, and handled similar to out of district votes and other absentee ballots. Amended 7/11/01

(B) **Absent voting location.** A voting booth and ballot box shall be provided and maintained at the Election Office with the necessary supplies to facilitate the absentee voting process. The Secretary shall be responsible for establishing a schedule of work for Election officials to provide an adequate opportunity for members to vote absentee, with said schedule to provide at least some opportunity each working day when the Tribal Office is open. Said schedule may not include weekends or holidays, must be posted in each reservation community, and shall identify the office location where absentee voting shall be offered, together with the hours absentee voting will be available. (Amended 5/2/05, 8/27/09, 10/28/11)

(C) **Absentee voting process.** Upon execution and receipt of an application for absent voter's ballot, the Clerk or judge shall enter the name of the applicant on the register provided therefore. The application for absentee ballot shall require the applicant, under oath, to affirm that he/she does indeed expect to be absent from the Fort Belknap Indian Reservation or be unable to appear at the time set for election. The voter shall vote his ballot and place it in an envelope (to be provided) marked "Fort Belknap Community Election of (month), (day), (year), Absent Voter's Ballot", seal the ballot envelope and place it in a larger envelope (to be provided) endorsed with voter's name and signature, which must be signed in front of notary public for the ballot to be counted, and cause it to be delivered or personally deposit it in the absent voter's ballot box or in the U.S. mail, postage prepaid, so that it will arrive at the Tribal office no later than the closing of the polls on election day. The designated election clerk shall safely keep the ballot box and election supplies in his office.

(D) **Absentee voter register.** The ballot or ballots used by absent voters shall be one of the official ballots for such election, beginning with ballot one and following consecutively according to the number of such applications. The Clerk shall keep a register of the absent voters including their signatures and, at the time election supplies are delivered to the polling places, a list of the absent voters shall be delivered to each polling place on election day.

(E) **Processing absentee voter ballots.** After 5:00 the day before the election, but before the opening of the polls on election day, an election judge shall open the absent voter's ballot box, sort the ballots by the polling places in which the voters are designated, place them in an envelope, seal the envelope, and deliver the envelope, together with a copy of the absent voter register, on the morning of the election, to the Chief Judge of the polling place for such ballots.

(1) ~~After the polls close~~ *Before the polls close, leaving enough time to count all ballots,* the Judges shall open the absent voter's ballot envelope and determine that absent voters ballots correspond to the register of absent voters. Those not corresponding shall not be discarded, but kept separate and destroyed at the time other ballots are destroyed. (Amended 9/30/09)

(2) The absent voter's ballot shall be taken from its exterior *and interior envelopes, and if electronic tallying is utilized, processed in a manner to*

maintain anonymity of the voter, before the close of polls, or if hand counting is utilized, while still enclosed in the interior envelope, be deposited in the regular ballot box of the polling place to be counted as provided. (Amended 9/30/09)

(3) If a person who votes as an absent voter is present on the Fort Belknap Indian Reservation on election day, he/she shall not be allowed to vote again, and the election judges shall each be provided with a list of absentee voters to insure they only vote once. Should an individual receive an absentee voter ballot, but fail to turn it in timely, he/she may present themselves at a District polling place in the District in which they are construed as residing, and present the ballot sealed, in the manner described above. Ballots so received shall be handled separately, and processed as set forth in this section. ~~delivered to the box containing other absentee ballots prior to their processing.~~ (Amended 9/30/09)

F. Recall Election Absentee Voting. Immediately upon the calling of a recall election, with said election to be conducted no less than twenty (20) days or more than thirty (30) days from the filing of the petition for recall, notices of the availability of absentee ballots shall be sent to all eligible voters. Care shall be taken to inform voters of the time of the election, and the importance of immediately requesting a ballot, if they wish to vote absentee. The Election Committee shall immediately respond to requests for absentee ballots, to afford voters the maximum opportunity possible to vote. All other provisions of this code concerning absentee balloting and the tallying thereof shall control.

SECTION 7 - CONDUCT OF ELECTIONS.

(A) **Election Committee Duties.** The Election Committee shall supervise the general conduct of elections and provide each polling place with a list of voters. Said list can be used to help judges determine questions as to eligibility of voters, resolve all disputes arising in the tabulation of ballots cast at the polling places, compile the total votes cast, and certify the total votes cast.

(B) **Polling Places.** The Council shall designate polling places on the reservation convenient for voting. The Committee shall make arrangements for polling places and provide all materials and facilities to assure secret balloting, and establish such records as required by this ordinance.

(C) **Election Judge's Duties.** It shall be the responsibility of the judges of each polling place to verify in the presence of the other judges that the ballot box is empty of all ballots prior to the opening of the polls and that the ballot box is then padlocked. The judges

shall then count the ballots provided and record the number of ballots received. The judges shall open the polls at the prescribed time, shall authorize additional ballots for voters only if theirs have been spoiled, shall keep a record of all spoiled ballots, shall keep all spoiled ballots separated from other ballots and deliver such ballots to the Election Committee along with the ballot box. The judges shall also assure that no other official election ballots are deposited in the ballot box. The judges shall assure the proper tally of votes cast in their polling places, shall immediately notify the Election Committee of the results of the Election, and shall prepare and deliver the locked ballot box containing all properly cast ballots, all spoiled or mutilated ballots, all unused ballots, and all records pertaining to the election at the polling place to the Election Committee.

(D) **Canvassing the Ballots.** The election judges at each polling place shall, upon the closing of the polls, immediately review the ballots, and tally such, *If electronic voting is utilized, the electronic devices shall be utilized to complete the tally.* Such tally shall be done openly and in the public view. The public shall have the right to view such proceedings, but shall not have the right to intervene, contest or otherwise challenge the tally of the ballots at such time. Such public inspection shall be for the sole purpose of determining the propriety of an election to facilitate possible protests before the Election Committee. The public may inspect ballots, *or the electronic process, if electronic voting is utilized* as they are tallied, provided they *(the ballots)* are not touched by anyone but an election judge *if paper ballots are used, or that the electronic devices are not touched, if electronic voting/tallying is used,* and such inspection in no way delays the tallying process. (Amended 8/27/09)

(E) **Supervision of Polls.** The Chief Judge at each polling place shall have primary responsibility for the supervision of the election. A second judge shall be designated the responsibility of maintaining whatever records are required, assisting the voters by determining whether they are qualified to vote, by providing the eligible voters with a ballot, by obtaining the signature and current address of eligible voters on a register, and by assisting those voters indicating a need for help. A third judge at the polling place shall be designated to assist the other judges by performing those additional duties which may be assigned to him to assure the proper conduct of the election.

(F) **Polling Place Designation.** The following polling places shall be provided for use in all Tribal Elections: Milk River District, Red Whip Center and at a place to be designated by the Tribal Council thirty (30) days in advance of each election; in the Dodson area; the Wath-A-Tau Community Center; Hays area; Kills At Night Center; Lodgepole area, Medicine Bear Lodge. The location of the polls within these polling places shall be selected by the Election

Committee and arrangements made by it for the secrecy of votes. The polls shall be open from 8:00 a.m. in the morning until 8:00 p.m. in the evening, M.S.T., on the date established for the election. (Amended 8/27/09)

(G) Certification of Election Results. A certificate of election results shall be prepared by the judges in each polling place indicating the total number of votes received by each polling place, the total number of spoiled ballots, total number of mutilated ballots, and an accounting made for all the ballots issued. Such certificate shall be placed in the ballot box with all other election materials and furnished to the Election Committee as soon as possible. Tribal Police shall carry ballot boxes from the polling places to the Tribal Office for further tally by the Election Committee. As soon as possible, the Election Committee shall verify the results of the election, and issue a final certification of election.

(H) Conduct of Election Officials. The election officials are not to be absent from the duties of their positions from the opening of the polls until all ballots have been counted, secured and delivered to the Election Committee. Election officials shall not express preference for any candidate.

(I) Protests. The Election Committee shall also receive any and all protests to the conduct of the election and shall render decisions on all such protests. All protests of the election shall be filed with the Election Committee within five (5) working days following the election date. A filing fee of \$25.00 shall accompany each election protest. Every effort shall be made to certify election results immediately. Should problems arise in such certification, the time for filing of protests shall be extended until five (5) working days after such certification is posted. Protests shall be deemed filed when received at the Tribal Office. Should the filing deadline fall on a weekend or holiday, such protests shall be accepted as timely through the next succeeding business day. The Election Committee shall conduct a hearing on a protest within five (5) days of the filing thereof. The Tribal Attorney shall assist the Election Committee in reviewing protests. The Committee shall have the power to subpoena witnesses, upon the request of an interested party. A protestor shall initially, upon the filing of a protest, give notice thereof by personal service and/or certified mail to all identifiable, directly impacted candidates or others regarding their Protest. A protestor shall file a verification statement with the Committee at the time of filing a Protest of whom they have informed and how, to demonstrate compliance with this part. Failure to notify directly impacted candidates or others may be grounds to dismiss a protest. Hearings on a protest may be continued to insure the notification of other interested parties. Written findings and conclusions on the merits of a protest shall be issued within five (5) days of the hearing thereon. Should the Election Committee find that a

protest is frivolous and totally without merit, the Committee may impose costs associated with hearing the protest filed. Amended 6/29/01

(J) **Recount of Ballots Cast.** If, in considering a protest, the Election Committee recognizes the validity of a contestant's complaint, the ballot boxes shall be opened and/or electronic voting machines reinspected and a recount taken by the Election Committee in the presence of the contestant and other interested parties. The results of the recount shall be certified by the Election Committee and the findings thereof shall be conclusive. (Amended 8/27/09)

(K) **Tie Vote.** If, after a canvas, it appears that two or more candidates for a position are tied for the most or, in a primary election, second most votes for a given seat, the Election Committee shall count the ballots two additional times. If the same count is received each time, the Community Council shall be immediately informed. If a primary election, the two top vote totals for each position shall be allowed to run in the General Election, however many people. If candidates for a position tie for the most votes in a general election, a special election shall be called. If inconsistent counts are received, the ballots shall be tallied no less than five (5) total times. The results thereof shall be sent to the Tribal Council for determination of needed action. If a runoff election is called, such shall be called and conducted as if a seat were vacated; only the two tying candidates shall be eligible as candidates, and procedurally, shall follow the process set forth herein.

(L) Automatic Recount. If the outcome of an election is determined by five (5) or less votes, (but not a tie) the Election Committee shall conduct a recount of the seat so determined. Recounts under this section shall be completed the day following the election at the election office, and all parties are charged with knowledge of this provision. If the second count returns the same results as the original count, the count shall be final, and the Election Committee shall issue certified results of the election. If the second count returns a count different enough to change the outcome of the election, a third count will be done by hand. If the third count is consistent with either of the first two counts, the count shall be final, and the Election Committee shall issue certified results of the election. If the third count is different than each of the first two, the Committee shall recount an additional two times, by hand, and utilize the most common results to determine the outcome of the election and issue certified results. (Added as Amendment, 8/27/09)

SECTION 8 - CHALLENGES.

(A) **Challenges prior to Election.** A candidate who is posted as qualified as a candidate, may be challenged prior to the primary election. Once the Election Committee

certifies that a candidate is eligible for candidacy, such shall be presumed, unless any member of the Tribes files a formal challenge with said Committee. The Committee shall have the power to subpoena witnesses, upon the request of an interested party. A challenger shall initially, upon the filing of a challenge, give notice thereof by personal service and/or certified mail to the party challenged, regarding their challenge. A protestor shall file a verification statement with the Committee at the time of filing a challenge, of whom they have informed and how, to demonstrate compliance with this part. Failure to notify directly impacted candidates may be grounds to dismiss a challenge. Hearings on a challenge may be continued to insure the notification of other interested parties. Upon receipt of a challenge, the Election Committee shall immediately conduct a hearing to review such challenge. The challenged candidate shall have the right to respond to said challenge. The findings of the Election Committee as to the validity of a challenge shall be final. Such challenges may be heard up to just before the beginning of absentee balloting, allowing a reasonable time for the printing of ballots. After such time, through the time of election, the candidate shall be presumed to be eligible for candidacy. Amended 6/29/01

(B) Challenges after Primary Election. After a primary election, before the general election, any member of the Tribes may file a written challenge of qualifications of a candidate with the Election Committee. All such challenges must be filed within five (5) days of the certification of election results, or shall be permanently waived. The Committee shall have the power to subpoena witnesses, upon the request of an interested party. A challenger shall initially, upon the filing of a challenge, give notice thereof by personal service and/or certified mail to the party challenged, regarding their challenge. A protestor shall file a verification statement with the Committee at the time of filing a challenge, of whom they have informed and how, to demonstrate compliance with this part. Failure to notify directly impacted candidates may be grounds to dismiss a challenge. Hearings on a challenge may be continued to insure the notification of other interested parties. Immediately upon receiving a challenge of an elected candidate, the Election Committee shall conduct a hearing thereon to review its validity. The candidate shall have an opportunity to respond to such challenge. The only basis for a challenge shall be the requirements for candidacy set forth in the Tribal Constitution. If the Election Committee finds a candidate ineligible for candidacy, after primary election, they shall inform the full Council of such and recommend the immediate calling of a new election for such position. Amended 6/29/01

(C) Challenges to Voters. If the eligibility of a voter shall be questioned by the Election Committee or the judges or by any watcher, the ballot of that voter shall be enclosed in an envelope which shall be endorsed with his name, the reason for the challenge, and the name of the challenger. This envelope shall then be sealed and dropped into the ballot box. Thereafter, if the number of challenged votes could affect the result of the election, the Election Committee shall determine the eligibility of all the challenged voters to participate in the election and shall count the votes of those determined to be eligible. The decision of the Election Committee in determining the eligibility of challenged votes shall be final.

SECTION 9 - BALLOTS.

(A) **Secrecy.** Ballots shall be secret and shall be cast by dropping such into locked ballot boxes. The use of electronic voting machines shall be completed in a manner, consistent with the manufacturer's manual, to maintain the secrecy of all ballots cast. The use of stickers and write-ins shall not be recognized as a legal method for voting, and the use of such shall cause a ballot to be considered spoiled. (Amended 8/27/09)

(B) **Spoiled Ballots.** Ballots shall be construed as spoiled if the instructions on the ballot are not followed. When more than one candidate is voted for on each ballot, if an error sufficient to spoil the ballot can be distinguished to allow part of the ballot to be valid, the valid part of the ballot shall be tallied. When such action is taken, the Chief Judge of the polling place shall briefly note such action on the ballot, and sign such. Voters may elect to "single-shot" or vote for only one candidate when instructions relate that more than one candidate is to be selected. Such action shall not cause a ballot to be spoiled, provided, the ballot is otherwise unspoiled. The Election Committee shall suggest further rules to govern the conduct of elections to the Council.

(C) **Tallying Ballots.** i. The election Judges, in tallying the ballots, shall make a determination as to whether a ballot is spoiled as each ballot is reviewed. As the ballots are being reviewed, said Judges shall make the decision on an individual ballot before going on to the tallying of other ballots. If said Judges fail to make the decisions as they review the ballots, such action shall be basis to protest any determination made at a later time.

ii. If electronic voting machines are utilized, ballots shall be presumptively valid, unless the machine, operated consistent with the manufacturer's manual, rejects a ballot. The above process shall then be utilized to determine the validity of a ballot, if possible. (Amended 8/27/09)

(D) **Ballot Preparation.** When preparing the ballots for an election, the officials shall be certain that such are prepared in legible print. Efforts shall be made to have such printing done commercially to improve the quality and readability of such ballots.

SECTION 10 - INTERPRETERS.

Interpreters may be provided to explain the execution of the ballots to such Tribal members as may need instruction. Assistance may be provided for those unable to execute their own ballots, but all necessary precautions shall be taken to assure that the voter is not influenced in casting his/her ballot.

SECTION 11 - WATCHERS.

Each of the candidates shall be entitled to have a watcher at the voting and at the tallying, but the watchers shall in no way interfere with the conduct of the election.

SECTION 12 - CAMPAIGNING.

Campaigning within 50 feet of the polling place is prohibited.

SECTION 13 - ALCOHOL & DRUGS.

Any member in an intoxicated condition shall not be eligible to vote. The judges at the polling place shall make all determinations under this action, and their majority decision shall be final. Said judges shall use caution that an individual is indeed intoxicated and that an observed condition is not attributable to a natural physiological trait.

SECTION 14 - LOITERING.

No loitering on the premises of the polling place is to be permitted during voting hours. After the close of the polls, the public will be permitted to witness the tally of votes, providing there is no interference with the judges or the Election Committee in the performance of duties.

SECTION 15 - APPEALS.

A. Limitations of Right. An individual who is dissatisfied with the outcome of a protest or other action of the Election Committee, may file an appeal thereon in the Tribal Court of the Fort Belknap Indian Community, unless the complained-of action is stated as final in this ordinance. The process described herein shall be the exclusive method for appeals, and considered final, when decisions are rendered or time limits effect finality.

B. Exclusiveness of Process. The processes for review set forth in this ordinance shall be the exclusive means to review/redress actions and processes of Tribal elections. Said processes have been reviewed to provide due process, and where no review is allowed, such has been determined to be outweighed by the necessity to timely conduct elections within the limited resources available to be committed by the Tribes to such tasks.

C. Filing Process. An appeal shall be filed by the filing of a written Notice of Appeal with the Tribal Court, the Tribal Secretary, and the Chairman of the Election Committee. Such notice shall be accompanied by a filing fee of \$100.00, refundable, if successful, and a Statement of the Appeal, which shall set forth the factual and legal basis therefore. All such appeals shall be filed within ten (10) calendar days of the action complained of. The failure to submit the filing fee immediately, provide proper notice to all of the noted parties, to meet the noted deadline, or to fail to file the required documents shall require the summary dismissal of the appeal.

D. Standard of Review. The exclusive standard of review at the Tribal Court shall be one of whether the action of the Election Committee is "arbitrary or capricious". The Tribal Court shall begin its review with a presumption that the action of the Election Committee was proper and correct, and if any basis can be found for the complained of action, it shall be upheld. Only if the action is found to be "arbitrary or capricious", without any legal or factual basis, shall it be found to be improper.

(1) "Arbitrary or capricious" shall be defined as follows: Such exists when the Committee action is not based upon all of the relevant factors which should have been considered. Mere error is not sufficient; the Committee action will not be overturned if it is supportable on a rational basis. Where Committee action is not based upon all of the relevant factors which should have been considered, there is no rational basis for sustaining it. In reviewing such, the Court is limited to the record before the Committee and cannot consider new facts first presented to the Court.

E. Response. The Election Committee shall respond to the appeal, with the assistance of the Tribal Attorney, within ten (10) days of the receipt thereof.

F. Review Process. If, after the receipt of an appeal and the Election Committee's response thereto, the Court determines that the merits of the appeal are likely to weigh in favor of the appellant, it may immediately recommend by written opinion, to the Tribal Council, that the implementation of the election be postponed. After receipt of an appeal and response, the Court shall immediately set a hearing date for the review thereof. Such shall not be more than ten (10) days after the filing of the Election Committee's response. After the hearing, the Court may request proposed findings from the parties, and shall rule on the merits of the appeal within fifteen (15) days of the hearing. Written findings shall be issued within said time limit.

G. Judgment and Limits on Remedies. Should the Tribal Court find an appeal to be meritorious, in whole or in part, it shall not order a disposition or remedy. The Court may suggest alternative dispositions and/or remedies. Such shall be reviewed by the Election Committee, and presented, with any additional alternatives, to the Tribal Council. The Tribal Council shall be the exclusive forum for determining the disposition of a meritorious appeal. The Tribal Council shall not review the merits of an appeal, but rather, shall simply determine the appropriate disposition/remedy. The action of the Tribal Council shall be final.

H. Finality of Court Decisions. The decisions of the Tribal Court shall be final, provided, that an appellant or the Election Committee may appeal to the Tribal Court of Appeals. Such Court shall be convened and determine the merits of an appeal within thirty (30) days of the filing of an appeal. The standard of review of the trial court action, at the appellate level, shall be the same as set forth above for Tribal Court review of Election Committee action. If such appeal is not completed within thirty (30) days of the filing thereof, the appeal shall be construed as denied. The Court, once convened, shall immediately establish a schedule to complete such an appeal within thirty (30) days.

SECTION 16 - SANCTIONS.

A person who votes at more than one polling place in a single election, or a person who campaigns within fifty (50) feet of an elector to vote a particular way, or an elector who accepts a thing of value for his vote in a particular way, or an election Judge who declares a preference

on election day for a candidate, or anyone who otherwise purposely or knowingly violates the provisions of this ordinance, shall be guilty of a crime, and, upon conviction thereof, may be sentenced to a fine not exceeding \$300.00, or to jail or labor, not exceeding 25 days or both.

SECTION 17 - GOVERNS REFERENDUMS.

This ordinance, where not in conflict with the constitution, shall govern referendum elections.

SECTION 18 - SOVEREIGN IMMUNITY.

The Election Committee, the members thereof, and the election Judges shall be immune from suit, and be protected by the sovereign immunity of the Fort Belknap Indian Community Council, as an administrative body and administrative officers thereof, as long as they reasonably believe and/or do act within their official capacities as such.

SECTION 19 - SAVINGS CLAUSE.

Should one or more provisions contained herein be found or recommend as contrary to law or otherwise improper, the balance of the provisions contained herein, and elections conducted pursuant thereto, shall be valid and enforceable, unless otherwise improper. Again, the only available review hereof, other than through general legislative review not specific to a given instance before the full Council, shall be through the methods set forth herein.

SECTION 20 - CONSTRUCTION OF TIME LIMITS.

Where time limits are set forth in this ordinance, the identification of such shall be construed calendar days, unless otherwise provided in this ordinance.

ATTEST:


TRACY KING, President
Fort Belknap Indian Community Council



PHYLLIS POND-CULBERTSON, Secretary-Treasurer
Fort Belknap Indian Community Council

CERTIFICATION

I, the undersigned, as Secretary of the Fort Belknap Indian Community Council of the Fort Belknap Indian Reservation, Montana, do hereby certify that the Fort Belknap Community Council is composed of 10 members, of whom 7 members, constituting a quorum were present at a meeting thereof, duly and regularly called, noticed, convened and held this 28 day of October, 2011; and that the foregoing ORDINANCE of the Fort Belknap Indian Community Council was duly adopted and approved by the affirmative vote of 7 for;

0 opposed; 0 not voted; 3 temporary absent; 0 absent; and that the said ORDINANCE has not been rescinded in any way.

DATE: Oct 28 / 11


PHYLLIS POND-CULBERTSON, Secretary-Treasurer
Fort Belknap Indian Community Council

FORT BELKNAP INDIAN COMMUNITY COUNCIL

FORT BELKNAP AGENCY,
HARLEM, MONTANA

Fort Belknap Indian Community

WHEREAS, the Fort Belknap Indian Community Council is the governing body of the Gros Ventre and Assiniboine Tribes of the Fort Belknap Indian Community, Fort Belknap Indian Reservation, Montana, by the authority of the Constitution and By-Laws of the Fort Belknap Tribes approved on the 13 day of December 1935, and

WHEREAS, under the Constitution and By-Laws of the Fort Belknap Indian Community, the Community Council is charged with the duty of protecting the health, security and general welfare of the Fort Belknap Indian Community, and

WHEREAS, the Fort Belknap Indian Community Council is charged with managing the programs and assets of the Tribes for the overall good of the Community, and

WHEREAS, the Council has heretofore, on June 30, 2011, approved the enumeration lists for the 2011 Election cycle as presented by the Election Committee and the Council Officers, and

WHEREAS, after completion of the enumeration list, it was learned that several eligible enrolled members were inadvertently left off the enumeration lists, and it is important that this error be corrected, and

WHEREAS, the Election Committee, assigned staff and Secretary/Treasurer have reviewed the enrollment list, compared it in detail to the enumeration list, and have generated the attached amended enumeration lists, listing all enrolled members and placing them in districts consistent with the Tribal Election Code, recommending its approval, and

WHEREAS, the Council has reviewed alternatives and concluded that approving placement of all members on enumeration lists is of importance, inasmuch as enrolled members, 18 years and above each have the right to vote in each election, and failure to have all members on enumeration lists could impede unlisted members from voting,

NOW, THEREFORE BE IT RESOLVED, that the Fort Belknap Indian Community Council does hereby review, affirm and approve for use the attached amended enumeration lists, effectively amending the lists prepared on June 30, 2011, and shall be the official enumeration lists utilized for the 2011 election process, and

BE IT FINALLY RESOLVED, that the Community Council Officers are hereby delegated the authority and responsibility to sign all documents necessary to effect this action.