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TRENTON INDIAN SERVICE AREA
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TITLE 28
TRENTON INDIAN SERVICE AREA

ARTICLE 1

Structure and Composition of the Trenton Indian Service Area Board of Directors

28.0001 **Definitions.**

Terms used or referenced shall be interpreted as follows:

1. "Constitution and By-Laws" shall be the revised Constitution and By-laws of the Turtle Mountain Band of Chippewa Indians as approved by the Secretary of the Interior on June 14, 1959 with amendments thereto on April 26, 1962 and April 03, 1975.
2. "Council" shall mean the duly elected governing body of the Turtle Mountain Band of Chippewa Indians.
3. "TISA" shall mean the Trenton Indian Service Area.
4. "TISA Board" shall mean the Trenton Indian Service Area Board of Directors empowered by this Ordinance, to act on behalf of the TISA members of the Turtle Mountain Band of Chippewa located in the stated geographical areas. (North Dakota: portions of Williams, Divide and McKenzie counties; Montana: portions of Roosevelt, Richland and Sheridan counties.)
5. "Ordinances" Enactment of laws by the governing body of the Turtle Mountain Band of Chippewa Indians in accordance with their Constitution and By-laws.
6. "Resolutions" directives setting forth the interpretation and implementation of enactments/law for day-to-day transactions.
7. "By-laws" structure and implementation of delegated authorities.
8. "Elections" shall mean the process by which the membership votes for the TISA Board.
9. "Membership" shall mean enrolled members of the Turtle Mountain Band of Chippewa Indians in accordance with their Constitution requirements.

28.0002 **Organization.**

The Trenton Indian Service Area (TISA) shall be managed by a Board of Directors consisting of seven (7) members duly elected in accordance with TISA By-laws.

The TISA Board of Directors shall regulate its own procedures within the parameters of this Ordinance and the Constitution and By-laws of the Turtle Mountain Band of Chippewa Indians, by resolution.

28.0003 **Elections.**

Elections of the TISA Board of Directors shall be conducted by rules and procedures promulgated by the TISA Board of Directors subject to those provisions contained in Article V - Nominations and Elections of the Constitution and By-laws of the Turtle Mountain Band of Chippewa Indians and considered to be applicable.

1. Membership in Turtle Mountain Band of Chippewa Indians
2. Age, 18 years old for voting purposes
3. Age, 25 years old for candidates
4. Residency
5. Absentee ballots
6. Registration

The TISA is directed to define its territorial Service Area and create, within those definitions, equitable population distribution to meet the Federal requirements of one man, one vote.

The Board of Directors shall enact a procedural Election Code which shall be subject to review by the Turtle Mountain Band of Chippewa Indians Tribal Council for sufficiency and compliance to the preceding Constitutional requirements.

The Election Code shall be carefully framed to ensure that the rights of persons affected by the election are safeguarded.

Violations of the TISA Election Code provisions shall be subject to the jurisdiction of the Turtle Mountain of Chippewa Indians' courts as referenced in the Election Code.

28.0004

Powers.

The TISA Board of Directors shall exercise the following powers subject to limitations imposed by Federal Statutes and express limitations within the contents of this Ordinance:

1. Develop By-laws consistent but not limited to the following:
 - a. Define TISA Board of Directors structure and tenure.
 - b. The right to sue and be sued in TISA's name upon any contract, claim, or obligation arising from any transactions by the TISA Board of Directors. Nothing in this Ordinance shall be construed as consent of the Turtle Mountain Band of Chippewa Indians to be sued (Sovereign Immunity does not attach).
 - c. To adopt and use an official seal.
 - d. To enter into agreements, contracts, and understandings with any governmental agency, Federal, State, and local (including the Council) or with any person, partnership, corporation or Indian Tribe, provided that any agreements or contracts negotiated pursuant to United States Code, Title 25, Section 81, must be approved by the Secretary of the Interior or his designee.
 - e. To lease property from the Tribe and others for such periods as are authorized by law, and to hold and manage or to sublease the same.
 - f. To borrow money and to issue the same, provided that any long-term debentures be subject to a two-thirds vote of the Board of Directors.
 - g. To pledge the assets and receipts of TISA as security for debts; and to acquire, sell, lease exchange, transfer or assign TISA property or interest therein subject to a two-thirds vote of the Board of Directors.
 - h. To purchase land or interest in land or personal property, to accept same by gift in the name of TISA; to lease such property to the extent provided by law.
 - i. To invest such funds as are not required for immediate disbursement.
 - j. To establish and maintain such bank accounts as may be necessary or convenient.
 - k. To ensure that all acquisitions, benefits and assets received by the Trenton Indian Service Area shall be used exclusively for the members of the designated Service Area; provided by the United States Department of Agriculture, Rural Utilities Service (RUS), the Trenton Indian Service Area shall comply with all federal laws, including, but not limited to, non-discrimination provisions which require that all such facilities shall be installed so as to serve any potential user within the service area who desires service and can be feasibly and legally served.
 - l. To ensure that the property of TISA is declared to be used essentially for public purposes and such property in TISA is to be exempt from all taxes and special assessments of the Tribe.
 - m. To employ personnel, technical and maintenance, and such other officers and employees, permanent or temporary, as it may require; and to delegate to such officers and employees such powers or duties as the Board may deem proper.
 - n. To ensure that during his/her tenure no officer or employee of TISA shall voluntarily acquire any interest, direct or indirect in any project or in any property included or planned to be include in a project or in any contract or proposed contract relating to any project of TISA. If any such officer or employee voluntarily acquires any such interest or voluntarily or involuntarily acquires any such interest

prior to appointment or employment as an officer or employee, the officer or employee, in such event shall immediately disclose their interest in writing to TISA, and such disclosure shall be entered in the minutes of TISA, and the officer or employee shall not participate in any action by TISA relating to the property or contract in which he/she has any such interest. Any violation of the forgoing provision of this section shall constitute misconduct in office. This section shall not apply to utility services, the rates of which are fixed by the governmental agency.

CHAPTER 1
Eligible Voters

28.0101 **Eligibility of voter.**

Eligible voters of such elections shall be any enrolled member of the Turtle Mountain Band of Chippewa Indians eighteen (18) years of age or over on the day of the election who have physically resided in the Trenton Indian Service Area (TISA) for thirty (30) days or more immediately preceding the date of the election. In accordance with the following districts:

1. District One (1):
Comprised of the eastern portions of Williams, Divide, and McKenzie Counties, North Dakota; a point of intersection of U.S. Highway 85 North and the Canadian Border. The southerly boundary of McKenzie County and U.S. Highway 85 shall be considered the District One (1) boundary on the west. The southern boundary of McKenzie County shall be south boundary of District One (1). The eastern boundary shall be described as the eastern boundaries of Williams, Divide, and McKenzie Counties.
2. District Two (2):
Comprised of the western portions of Williams, Divide and McKenzie Counties, North Dakota, commensurating at the western boundary of District One (1) (as herein described) shall be the eastern boundary of the District Two (2), the southerly boundary shall be the southern boundary of McKenzie County west to the Montana and North Dakota north-south borders, thence north to the Canadian boarder, thence east to the west boundary line of District One (1) (as herein described).
3. District Three (3):
Beginning at a point where the Canadian border and the east boundary line of Sheridan County, Montana, and the east boundary line of the Daniels County, Montana, intersect; thence south along the west boundary line of Sheridan County, Montana to a point where said line intersects with the north boundary line of the Fort Peck Indian Reservation; thence east along said reservation line to the northeast corner of said reservation; thence in a southerly direction following the Big Muddy Creek, to a point where said Big Muddy Creek intersects and southern bank of the Missouri River; thence in a westerly direction along the south bank of the said Missouri River to a point where said line intersects the west boundary line of Township 55 North; thence in a southerly direction along said west boundary line of Township 55 North to a point where it intersects with the south boundary line of Richland County, Montana; thence in a southeasterly direction, following south boundary line of Richland County to a point where it intersects with the Montana-North Dakota boundary; thence north along said Montana-North Dakota boundary; thence west along said Canadian border to the point of beginning.

CHAPTER 2
Elections

28.0201 **All elections shall be secret ballot and a majority vote shall rule.**

The general election shall take place the first Tuesday in April of every odd-Numbered year.

28.0202

Election Board.

The Election Board shall consist of four (4) persons, with four (4) alternates. The Election Board and alternates shall be appointed by the TISA Board of Directors, who shall designate the fourth member at large as Chairperson. The Election Board Members must be residents of the Trenton Indian Service Area and the respective districts. Each Election Board member, except the Chairperson, shall act as Inspector at their respective polling places. The TISA Board shall appoint the Election Board not less than **one (1) year** prior to the election date to insure proper training to conduct the election.

28.0203

Notice shall be posted.

A notice shall be posted ninety (90) days prior to the date of appointment of the Election Board to allow interested persons the opportunity to express their interest to serve on the Election Board.

28.0204

Duties of the election board.

1. Voter Registration and Eligibility:

The Election Board shall permit any eligible voter to register at the polls to vote in the election. When a person's voting eligibility is questioned, s/he shall be required to execute an affidavit describing his/her name, address, date of birth, district of residence, period of latest residence, and if absent from the voting district, the reason for such absence. The Election Board shall review all affidavits and determine the eligibility of the member to vote in accordance with Chapter One (1). Challenges shall be in writing and decided by the Election Board whose decision shall be final.

2. Notice of Election: The Election Board shall prepare a notice of the date of the election and give such notice as is appropriate to inform the eligible voters of the date, time, and polling places including, but not limited to, posting of the notice in the TISA offices and other places through the voting districts. The Notice of Election shall be published in, but not limited to, the following media: The Williston Herald, the Culbertson Searchlight, the Plentywood Herald and the Sidney Herald. The notice of Election and the list of candidates running for office will be published at least one time.

The Notice of Election shall invite qualified candidates to file a Notice of Intent of their candidacy for District Representative or Chairperson-at-large. In order to be filed with the Chairperson of the Election Board such Notice of Intent must be physically in the mailbox by 5:00 p.m. at least thirty (30) days prior to the election. The deadline date for filing the Notice of Intent shall be specified in the Notice of Election. The Notice of Election shall be posted in those places provided for herein, not less than forty-five days prior to the election.

3. Notice of Intent for Office: All Notices of Intent for Office shall be received by the Chairperson of the Election Board. Immediately upon receipt of a Notice of Intent for Office of a candidate, the Chairperson of the Election Board shall convene the Election Board, which shall review all Notices of Intent for Office and shall determine whether the candidates are qualified for office pursuant to the following requirements:

- a. Each candidate must be an enrolled member of the Turtle Mountain Band of Chippewa Indians.
- b. Twenty-five (25) years of age or older.
- c. Persons who are employed by the Trenton Indian Service Area cannot be elected to the Board of Directors. Employees choosing to run as a candidate must resign from his or her TISA position prior to the day of election.

- d. Residency for Chairperson means physically residing in the Trenton Indian Service Area for one (1) year **or more** immediately prior to the elections and in the case of candidates for District Representative, residence means physically residing at least 180 days **or more** immediately prior to the elections in the representative district. Written instructions shall be included when someone asks for a Notice of Intent form, that specifies that no personal checks will be accepted, the exact deadline for filing, and that any errors in filing will result in the Notice of Intent being returned by mail.
- e. A Notice of Intent form shall be used by all candidates. The Election Board shall provide any candidate whom they deem to be ineligible three (3) days to provide them with evidence to qualify him/herself for candidacy. The decision of the Election Board on the eligibility of a candidate shall be final. This shall not preclude any candidate from seeking review from the Turtle Mountain Tribal Court. However, until a decision is handed down, the election process shall proceed. The names of all candidates found eligible to hold office shall be placed on the ballot for the election. The Election Board shall prepare all ballots and the related election materials. The official ballot shall bear the facsimile signature of the Chairman of the Election Board.

Following is the Notice of Intent form:

"I, _____, do solemnly affirm that I am a member of the Turtle Mountain Band of Chippewa Indians, that I will be twenty-five (25) years of age or over on the election date, and have physically resided in the TISA (mark one):

- () Chairperson and candidate one (1) year immediately prior to election.
- () District Representative candidate, 180 days in district immediately prior to the election.

I, _____, give authorization to the TISA Election Board to verify the contents of this document and to receipt my ability to secure SURETY BONDING. I understand that if the contents of this document cannot be verified, it may be grounds for forfeiture of candidacy or office.

Candidate

Subscribed and sworn to before me this _____ day of _____, 19____; and I hereby certify that the affiant executed his signature to this Notice of Intent for candidacy for the TISA Board.

Notary Public

- f. Each candidate shall furnish a statement from a surety company or commercial bank indicating the candidate is bondable sufficiently to ensure TISA from loss. Blanket bonds are permissible insofar as each candidate must be listed on such blanket bonds.
4. Absentee Ballots: Eligible voters who are temporarily absent or otherwise unable to cast their ballots due to circumstances beyond their control, including but not limited to, service in the military, physical or mental impairment, education reason, medical emergency or treatment, or death in the family at the polling places from their districts may request an absentee ballot. Requests for such ballots must be in writing and filed with the Chairperson of the Election Board prior to the date of election. The Chairperson will immediately furnish all request for absentee ballots to the Election Board who shall, upon determining his/her eligibility to vote, give or mail a ballot to the voter in sufficient time to permit the voter to execute and return it on or before the date of the election.

Together with the ballot, there will be an inner envelope bearing on the outside the words "Absentee Ballot", a pre-addressed outer envelope, a statement informing the voter that the absentee ballot must be physically in the mailbox by 2:00 p.m. on the date of the election to be counted, and an affidavit in the following form:

I, _____, do solemnly affirm that I am a member of the Turtle Mountain Band of Chippewa Indians; that I will be eighteen (10) years of age or over at the election date, and have resided in the _____ District for thirty (30) days immediately preceding the election, and am entitled to vote in the election to be held _____ (date) _____, and that I cannot appear at the election because (indicate one of the following reasons: _____ I expect to be absent from my district due to temporary employment; _____ because of military service; _____ because of illness; _____ because of physical disability; _____ because of attendance at an institution of learning. I further swear that I marked the enclosed ballot in secret.

Voter

Subscribed and sworn to before me this _____ day of _____, 19____; and I hereby certify that the affiant exhibited the ballot me unmarked; that s/he then in my presence and in the presence of no other person, and in such manner that I could not see his vote, marked such ballot and enclosed and sealed the same in the envelope marked "Absentee Ballot".

Notary Public

The voter shall make and subscribe to the affidavit before any officer authorized by law to administer oaths, and thereupon in the presence of such officer and of no other person, mark such ballot, but in such manner that the officer cannot know how the ballot was marked. After marking the ballot, it shall, in the presence of the officer, be placed in the envelope marked "Absentee Ballot" and shall then be placed in the larger envelope, together with the affidavit, and returned through the U.S. Postal Service, certified mail, to the Chairperson of the Election Board at a pre-determined P.O. Box in sufficient time to be delivered to the proper district polling place prior to the counting of the ballots. The instructions for the returning of absentee ballots will be included in the absentee ballot packet. The Election Board shall maintain a separate record of all absentee ballots mailed, to whom mailed, the dates of mailing, the addresses on the envelopes, the dates of return of the ballots and from whom received, and shall count and register all such votes after all other ballots have been counted and include them in the results of that election.

The Election Board shall maintain a separate record of all absentee ballots requested, all absentee ballots permitted, to whom they were delivered, the date the vote on the ballot was cast, the date the ballot was delivered to the Election Board, and the name and address of the person who delivered the ballot to the Election Board. The Election Board shall retain and count absentee ballots after all other ballots have been counted and include all valid absentee ballots in the results of that election.

28.0205

Polling Places.

One polling place shall be designated at each district for all elections. The polling places shall be open from ten o'clock (10:00) a.m., local time until seven o'clock (7:00) p.m. on the date established for the election. Alternate polling places may be used, provided the election notice identifies the new polling place. There will be a Sergeant at Arms on duty during polling hours on Election Day.

Conduct of Elections.

1. The Election Board shall supervise the general conduct of elections, and shall verify as to the enrollment of voters, shall settle all questions as to the eligibility of voters, resolve all disputes arising from the tabulations of ballots cast in the district polling places, compile the total votes cast in the districts, including the absentee ballots, and certify to the TISA Board the votes cast.
The Election Board shall appoint, at each district polling place, not less than two (2) persons, one to serve as Election Judge and one to serve as Election Clerk from that district. It shall be the responsibility of the Election Board to make arrangements for the polling places and adequately post their locations, obtain all materials such as ballots, pencils, ballot boxes, and to record the election processes to avert and respond to challenges and to provide privacy of voting by either voting booths or partitioning off an area to vote in private.
2. It shall be the responsibility of the Election Judges to verify, in the presence of the inspector, who is a member of the Election Board; that the ballot box is empty of all ballots and padlocked prior to opening of the polls.
3. The Election Judges shall count the ballots provided by the Election Board and record the number of ballots received. The Election Judges shall open the polls at the prescribed time, shall authorize additional ballots for the voters only if others have been spoiled, shall keep all spoiled ballots separate from other ballots, and deliver such ballots to the Tribal Election Board along with the ballot box. The Election Judges shall assure that only official ballots are deposited in the ballot box. The Election Judges shall assure the proper tally of all votes cast in the district, shall immediately notify the Election Board of the results, and shall prepare and deliver in the locked ballot box all properly cast ballots, all spoiled and mutilate ballots, all unused ballots, and all records pertaining to the elections in the district to the Election Board. The Election Judges shall assist voters indicating a need for help. The Clerk of the Election shall also assist voters who indicate such need. It shall be the Clerk's duty to assist the Election Judges in carrying out their responsibilities. The Clerks of Election shall be assigned all record-keeping duties, maintaining a roster of the signature and current address of each eligible voter on the register. The number of valid cast ballots should tally with the number voters registered. Discrepancies in the number of votes cast and the number of voters registered should be evaluated and, where a discrepancy could affect the results of the election, the election shall be considered void. Indian preference shall be given to Election Clerks and Election Judges.
4. Voter Impairment. Any eligible voter who declares to an Election Judge that he or she cannot read English, or because of visual impairment or other impairment is unable to mark his or her ballot, may request the help of an Election Judge to mark his or her ballot. An Election Judge may assign this duty to an Election Board member. Any person assisting an eligible voter shall hold that person's vote in confidence.

Conduct of election officials.

Election officials must be available to the voting constituency from the time of appointment until they have completed their responsibilities in accordance with this Code. 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 and secured in the ballot box and turned over to the Election Board. The exception will be the Election Board Chairperson, who will be the liaison between the polling places, systematically checking each polling place throughout polling hours.

28.0208

Ballots.

1. Ballots shall be secret and shall be cast by dropping into locked ballot boxes. The use of stickers and write-ins will not be recognized as a legal method of balloting for Trenton Indian Service Area elections and the use of stickers and write-ins shall disqualify the ballot. The voting on other issues not provided for in the Notice of Election shall disqualify the ballot and make it void.
2. The ballots will be consecutively numbered, with tear off numbers on the bottom of each ballot, with the ballot coinciding with the voter's sign-in sheet.

28.0209

Watcher.

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

28.0210

Challenges.

If the eligibility of a voter shall be questioned by the Clerk(s), Election Judge(s), or Inspector(s), or any watcher, the ballot of that voter shall be enclosed in an envelope which shall be endorsed with his/her name, the reason for the challenge, and the name of the challenger. At the time of the challenge, the challenged voter must sign an affidavit swearing or affirming that s/he his not guilty of the charge against him/her. The signed oath shall also be enclosed in the envelope with the ballot. If s/he refused to sign the oath, the person is prohibited from casting his/her vote. This envelope shall then be sealed and dropped into the ballot box. Thereafter, the number of challenged votes could affect the result of the election, the Election Board shall determine the eligibility of all challenged voters to participate in the election and shall count the votes of those determined to be eligible. The decision of the Election Board in determining the eligibility of challenged voters shall be final.

28.0211

Campaigning.

Campaigning is prohibited within one hundred (100) feet of the buildings containing the polling places.

28.0212

Loitering.

No loitering on the premises of the polling places is to be permitted during polling hours. After the close of the polls, the public will be permitted to witness the tally of votes, provided there is no interference with the Election Board in the performance of their duties.

28.0213

Alcohol and drugs.

A member under the influence of alcohol or drugs shall not be eligible to vote. The authorized officials of the particular polling place shall make all determinations in this matter and the matter and the majority decision will prevail.

28.0214

Sergeant at Arms.

It shall be the responsibility of the Election Board to appoint a Sergeant at Arms whose responsibilities will be to assist the Election Board Chairperson in guarding against irregularities or disturbances at each polling place.

The Sergeant at Arms is directed to remove those persons who are in violation of the election provisions set forth in this Code. S/He shall also note the following irregularities, specifically securing witness statements which allege that:

1. There has been a fraudulent alteration of another person's ballot or substitution of one ballot for another, defrauding a voter of his/her vote or depositing an unauthorized vote for another.
2. There is voting or offering to vote more than once in any election.

3. One has knowingly voted in the wrong district.
4. One has knowingly excluded a qualified elector from voting or allowed an unqualified person to vote.
5. One has voted and knows s/he is not qualified to vote.
6. An election official has willingly failed to perform his/her duties after having accepted those responsibilities.
7. One has willfully made a false canvass of votes, or made, signed, published, or delivered any false return of an election, knowing the same to be false, or willfully defaced, destroyed, or concealed any statement or certificate entrusted to his/her care.
8. One has destroyed ballots, ballot boxes, election lists, or other election supplies except as provided by law. The Sergeant at Arms shall submit his/her report of any irregularities to the Tribal Prosecutor of the Turtle Mountain Tribal Court of review and possible prosecution.

28.0215 **Contest of election.**

A contest of election may be brought by filing with the Election Board a complaint duly verified under oath, setting forth a concise statement of the facts on which the contest is based. No complaint shall be considered unless filed within three (3) days after certification of the election results by the Election Board. Each complaint must be accompanied by a fee of one hundred (\$100) dollars, which is not refundable. The Election Board shall consider in each contest the evidence presented by the complaining parties and other evidence brought to attention by interested parties. It shall report its final decision within five (5) days after the contest is filed to the Trenton Indian Service Area Board and the complainant. Complaints against the TISA Election Board shall be subject to review and possible action by the Turtle Mountain Tribal Court.

28.0216 **Run-off election.**

A candidate for Chairperson must receive a **plurality** of the votes cast for that office to be declared elected. If no candidate receives a **plurality** of votes cast, the two candidates receiving the highest number of votes shall be the candidates in a run-off election to be held not more than thirty (30) days after the general election. The Chairperson-at-large run-off shall be held in all three (3) districts. The highest vote-getter in each district shall be certified as that district's representative. In the event of a tie, those candidates shall have their names placed on the ballot in a run-off election. The TISA Election Board and the district Election Judges and Clerks shall also supervise the run-off elections, following the same rules and procedures as in the general election.

28.0217 **Intent and Purpose of this Code.**

This Code is intended to establish procedure to insure fair elections. This Code shall be interpreted liberally to accomplish such intent. Substantial compliance shall satisfy this Code, except in instances wherein time limits are imposed. Technicalities shall not be used to interfere, or to cause confusion or loss of confidence in the election system of Trenton Indian Service Area.

28.0218 **Saver Clause.**

If any provision of this Code is found contrary to the governing Code or Federal law, only that provision shall be stricken and all other provisions of this Code shall be applicable.