Prairie Island Indian Community
Domestic Relations Ordinance[1]

Table of Contents

Section 1. Short Title. 1
Section 2. Statement of Purpose, Findings, and Authority. 1
Section 3. Definitions. 1
Section 4. Applicability. 2
Section 5. Marriage. 2
Section 6. Marital Property. 6
Section 7. Divorce. 6
Section 8. Child Custody and Visitation Upon Divorce. 17
Section 9. Rules of Procedure for Divorce, Annulment, Property Division, Visitation, and Child Custody Actions. 21

[1] Note of Adoption and Amendment: The Community Council adopted Title 3 of the Judicial Code, the precursor to this Ordinance, on December 12, 1992, by Resolution Number 92-157. The Community Council repealed Chapter IX of that Title on November 20, 2019, by Resolution Number 19-11-20-163, when it enacted the Child Welfare Ordinance, and deleted the resulting placeholder within this Ordinance on August 6, 2025, by Resolution Number 25-8-6-153. The Community Council amended Title 3 on September 14, 2022, by Resolution Number 22-9-14-154, to add Notes of Amendment summarizing the legislative history of the Title. The Notes of Amendment are for convenience only and should not be relied on as mandatory authority. That Resolution also standardized subsection numbering throughout Title 3. The renumbering was a technical change to increase usability and was not intended to affect any content of the Title. The Community Council restated this Ordinance on October 26, 2022, by Resolution Number 22-10-26-193, as part of a comprehensive ordinance-reformatting project. The changes in the restatement were not substantive unless otherwise noted in the Notes of Amendment.

Section 10. Antenuptial Contracts. 33
Section 11. Paternity 34
Section 12. Adoption. 35
Section 13. Records. [reserved]. 41
Section 14. Miscellaneous Provisions. 41

Section 1. Short Title. This Ordinance shall be known and may be cited as the Prairie Island Indian Community Domestic Relations Ordinance.

Section 2. Statement of Purpose, Findings, and Authority.

a. Purpose. The Community has the inherent sovereign power to regulate the domestic relations of its Members concurrently with the State of Minnesota. No more important power is exercised by Indian Tribes than the power to protect and govern the domestic relations of their members. The purpose of this Ordinance is to inform Community Members of that inherent sovereign authority and enable them to use their own Tribal forum for resolution of domestic relations issues.

b. Findings. [reserved].

c. Authority. [reserved].

Section 3. Definitions.[2]

a. "Adult" means a person 18 years or older.

b. "Appellate Court" means the Appellate Court of the Prairie Island Mdewakanton Dakota Community Tribal Court.

c. "Child(ren)" or "Minor" means a person who is less than 18 years of age.

d. "Community" means the Prairie Island Indian Community in the State of Minnesota, a federally recognized Indian Tribe.

e. "Community Council" means the constitutionally authorized governing body of the Community, also referred to as the "Tribal Council."

f. "Community Member" or "Member" means an enrolled member of the Prairie Island Indian Community.

g. "Divorce" means a decree terminating the marital relationship and restoring the parties to the state of unmarried persons.

h. "Family or Household Member(s)" means spouses, former spouses, Parents and Children, persons related by blood, and persons who are presently residing together or who have resided together in the past, and persons who have a Child in common regardless of whether they have been married or lived together at any time.

i. "Indian Child Welfare Act" or "ICWA" means Pub. L. 95-608, 92 Stat. 3069, codified at 25 U.S.C. §1901, et seq.

j. "Legal Custody" means the right given by the Tribal Court to the custody and control of the Child and the responsibility to provide for the daily care of the Child, unless otherwise specified by Court order.

[2] Note of Amendment: The Community Council amended this Section on August 6, 2025, by Resolution Number 25-8-6-153, to centralize existing definitions of Adult, Child(ren), Family or Household Member(s), Indian Child Welfare Act, Legal Custody, Minor, Parent(s), Parent-Child Relationship, and Relatives in this Section, and add a definition for "Prairie Island Indian Community Reservation" or "Reservation."

k. "Marriage(s)" means a personal relationship arising out of a civil contract requiring the consent of the parties entering it or their guardians, as provided in Sections 5(b)(1) and (4) (Age Limits and Competency).

l. "Marital Property" means real and personal property acquired during the Marriage except for gifts and inheritances unless otherwise provided by this Ordinance.

m. "Parent(s)" means:

1. The natural mother of a child;[3]

2. A father to whom a child's paternity has been established or is presumed, as defined in Section 11 (Paternity); or

3. An adoptive parent; and

does not include a person whose Parent-Child Relationship has been terminated by Court order.

n. "Parent-Child Relationship" means all rights, privileges, duties, and obligations existing between Parent and Child, including inheritance rights.

o. "Prairie Island Indian Community Reservation" or "Reservation" means all lands and waters within the exterior boundaries of the Prairie Island Indian Reservation, notwithstanding the issuance of any patent, easement, or rights-of-way running through the Reservation, ceded lands, and such other lands without such boundaries as may be added by purchase, exchange, transfer, gift, or grant, or which are under the jurisdiction of the Community.

p. "Relatives" means relatives of a Child within the second degree either by blood or affinity including stepparents, sisters, brothers, grandparents, aunts, and uncles.

q. "Tribal Court" or "Court" means the Prairie Island Mdewakanton Dakota Community Tribal Court.

Section 4. Applicability.[4] The Community has jurisdiction over the domestic relations of its Members.

Section 5. Marriage.

a. Jurisdiction.[5] The Community has jurisdiction over all Marriages where at least one marrying spouse of the Marriage is a Community Member.

b. Who May Marry.

1. Age Limits. No person under the age of 18 years may marry without the written consent of both Parents if the person is living with both Parents, or the Parent with

[3] Note of Amendment: The Community Council amended this subsection on August 6, 2025, by Resolution Number 25-8-6-153, to clarify that a natural mother of a Child is a Parent of that Child.
[4] Note of Amendment: The Community Council amended this subsection on August 6, 2025, by Resolution Number 25-8-6-153, to delete the word "original" before "jurisdiction."
[5] Note of Amendment: The Community Council amended this subsection on August 6, 2025, by Resolution Number 25-8-6-153, to clarify that regardless of where they are married, the Court will only exercise jurisdiction to marry a couple where at least one marrying spouse is a Community Member.

whom the person lives if only one Parent. If the person is not living with either Parent, the written consent of the nearest Adult Relative with whom the Minor is living or of a guardian appointed by the Tribal Court is required. If any person authorized to give consent to the Marriage of a Minor is incapable of giving such consent because of mental incapacity or otherwise, a guardian appointed by the Tribal Court may give consent instead of such persons.

2. Blood Relationships. Persons related by blood in the form of Parent, or by whole or half-blood in the form of sibling, aunt, uncle, niece, nephew, or first cousin may not marry one another.

3. Gender.[6] Two persons of the same or opposite gender may marry.

4. Competency. No person declared incompetent by the Tribal Court may marry in the jurisdiction of Tribal Court without the consent of that person's Parent or legal guardian.

5. Persons Already Married. No person who is already married in this or any other jurisdiction may be licensed to be married in the Tribal Court except as provided in Section 5(b)(6) (Absent Spouse Provisions).

6. Absent Spouse Provisions.

   A. A person who is already married may marry if:

      i. The absent spouse has been absent for five consecutive years;

      ii. The person wishing to marry reasonably believes the absent spouse to be dead; and

      iii. The Tribal Court makes a finding and order after hearing that the absent spouse is presumed dead.

   B. A judge may not make a finding and order that the absent spouse is presumed dead without notice of hearing to the absent spouse. Publication of the notice of hearing in three consecutive issues of a newspaper having general circulation on the Reservation and publication in three consecutive issues of a newspaper of general circulation in the county of the absent spouse's last known residence, if known, is sufficient notice.

   C. Hearing on an application for presumption of death of spouse may not be held less than 30 days from the last publication of notice of hearing.

   D. The fact that an absentee spouse was exposed to specific peril of death may be sufficient grounds for finding that they died less than five years from the last date on which they were heard from.

[6] Note of Amendment: The Community Council amended this subsection on March 22, 2017, by Resolution Number 17-03-22-44, to remove the prohibition against same-gender marriage.

c. Marriage Requirements—Generally.

1. License Requirement.[7] Anyone wishing to marry under the jurisdiction of the Community as defined in Section 5(a) (Jurisdiction) must first obtain a Marriage license from the Tribal Clerk of Court.

   A. Before issuing any Marriage license, the Clerk of Court shall ascertain by questioning the applicants, by requiring them to fill out a form, or by any other means at their disposal, that the applicants are sober, are mentally competent, and meet all the requirements of Section 5(b) (Who May Marry).

   B. The Clerk of Court may issue Tribal Marriage licenses to qualified applicants regardless of their places of residence.

   C. A person applying for a Marriage license must pay to the Clerk of Court the fee listed in the fee schedule posted on the Court's website.

   D. The Tribal Marriage license must conform to the license form developed by the Court, and must include a Marriage certificate on the face of the form. The form shall be available upon request from the Clerk of Court.

2. Methods of Contracting Marriage.

   A. If the contracting parties choose to marry without a ceremony, they will thereafter be declared as married if:

      i. The contracting parties declare in the presence of two witnesses that they take each other to be married;

      ii. The contracting parties sign the Marriage certificate printed on the face of their Marriage license in the presence of both witnesses; and

      iii. Both witnesses also sign the certificate.

   B. If the contracting parties choose to marry according to the rites of any religious denomination designated as having authority to perform Marriages according to the form and usage of their religion, or to solemnized the Marriage by a judge of the Tribal Court, by the President of the Community Council, or by any other person recognized by Minnesota law as having authority to perform Marriages, the contracting parties will thereafter be declared as married if:

      i. The contracting parties sign the Marriage certificate printed on the face of their Marriage license in the presence of two witnesses;

      ii. Both witnesses also sign the certificate; and

      iii. The officiant, where present, also signs the certificate.

[7] Note of Amendment: The Community Council amended this subsection on August 6, 2025, by Resolution Number 25-8-6-153, to direct litigants to a centralized Court Fee schedule.

d. Validity of Marriages.

1. Valid Marriages. Valid Marriages performed or licensed by the Tribal Court are those that comply with subsection (c)(2) of this Section (Methods of Contracting Marriage). A valid Divorce decree is necessary to terminate a valid Marriage, absent death or annulment. All Marriages performed other than as provided for in this Ordinance, which are valid under the laws of the jurisdiction where and when performed, are valid within the jurisdiction of the Community.

2. Voidable Marriages. Voidable Marriages are those in which one or more of the elements of subsection (e) of this Section (Annulment) are met. Either party to a voidable Marriage may move the Tribal Court to annul the Marriage. Annulment of a Marriage means that for legal purposes, the Marriage never existed.

3. Void Marriages.[8] Marriages that violate one or more of the following requirements of this Ordinance are void without any decree of Divorce or other legal proceedings: Sections 5(b)(2) (Blood Relationships); Section 5(b)(4) (Competency); or Section 5(b)(4) (Persons Already Married).

e. Annulment.

1. Grounds for Annulment.[9] A Marriage may be annulled for any of the following causes existing at the time of Marriage:

A. Minority. A party was under the age of 18 years, and such Marriage was contracted without the consent of their Parents or guardian, or persons having charge of them, unless, after attaining the age of consent, the party seeking annulment freely cohabits with the other as spouses;

B. Fraud. The consent of either party was obtained by fraud, unless the party seeking annulment afterward, with full knowledge of the facts constituting the fraud, freely cohabits with the other as spouses;

C. Force. The consent of either party was obtained by force, unless the party seeking annulment afterward, freely cohabits with the other as spouses; or

D. Impotence. Impotence that continues and appears to be incurable.

2. Action to Annul - Parties and Limitations. An action to obtain a decree of annulment of a Marriage, for causes mentioned in Section 5(e)(1) (Grounds for Annulment) must be commenced within the periods and by the parties as follows:

A. For causes mentioned in Section 5(e)(1)(A) (Minority):

i. By the party to the Marriage who was married under the age of legal consent, within two years after arriving at the age of consent; or

[8] Note of Amendment: The Community Council amended this subsection on August 6, 2025, by Resolution Number 25-8-6-153, to remove the citation to Section 5(b)(3) (Gender) as no longer applicable.
[9] Note of Amendment: The Community Council amended this subsection on August 6, 2025, by Resolution Number 25-8-6-153, to refer to married persons as spouses, consistent with the remainder of this Ordinance.

ii. By a Parent, guardian, or other person having charge of such Minor, at any time before such married Minor has attained the age of legal consent;

B. For causes mentioned in Section 5(e)(1)(B) (Fraud), by the defrauded party, within two years after the discovery of the facts constituting a fraud;

C. For causes mentioned in Section 5(e)(1)(C) (Force), by the forced party within four years after the Marriage.

D. For causes mentioned in Section 5(e)(1)(D) (Impotence), by the injured party within two years after the Marriage.

3. Application of Laws of Succession. If a Marriage is annulled for any reason other than for fraud because the wife is pregnant with a Child from a man other than the husband, then Children born before judgment may succeed to the estate of both Parents. The Court may at the time of granting the annulment or at any future time, make necessary orders for the custody and support of said Child or Children as the circumstances or the Parents may require.

Section 6. Marital Property.

a. Separate Property. The separate property of each spouse is anything that either of them owned prior to the Marriage and separate gifts and inheritances acquired during the Marriage. The separate property of either spouse is not liable for the debts of the other spouse.

b. Debt. The Marital Property is liable for the debts contracted during the Marriage by either spouse.

c. Termination of Marital Property. Marital Property shall cease to be acquired upon the filing of a petition for Divorce by either party, provided the petition leads to the dissolution of the Marriage.

Section 7. Divorce.

a. Proceeding; How and Where Brought.[10] The Community has jurisdiction over all Community Members and their spouses for the dissolution of a Marriage before the Tribal Court.

b. Grounds for Divorce. A Divorce will be granted if the Tribal Court finds that there has been an irretrievable breakdown of the Marriage relationship. There is an irretrievable breakdown of a Marriage if one of the spouses alleges an irretrievable breakdown and that there is no reasonable prospect of reconciliation.

c. Filing Fee.[11] A person applying for a Divorce must pay to the Clerk of Court the fee listed in the fee schedule posted on the Court's website. If a person is unable to afford the filing fee, that person may petition the Tribal Court to waive the fee.

[10] Note of Amendment: The Community Council added this subsection on October 1, 1999, by Resolution Number 99-10-1-91.

[11] Note of Amendment: The Community Council amended this subsection on August 6, 2025, by Resolution Number 25-8-6-153, to direct litigants to a centralized Court Fee schedule.

d. Division of Property Upon Divorce.

1. Marital Property. If no valid antenuptial contract to the contrary exists between the spouses, the Marital Property of the spouses is to be divided equitably upon Divorce. The Tribal Court shall consider the length of the Marriage; the contributions, financial and non-financial, of both spouses; the standard of living to which each spouse has become accustomed; the financial needs of each spouse; and any other factor the Court finds appropriate. The Tribal Court must not consider the misconduct of either spouse when making its determination concerning division of property.
2. Separate Property. If no valid antenuptial contract to the contrary exists between the spouses, the separate property of each of the spouses remains the property of the respective spouse. Separate property of a spouse may be given to the other spouse only to prevent unfair hardship.
3. Untraceable Property. If no valid antenuptial contract to the contrary exists between the spouses, property that cannot be traced as separate property of one of the spouses is considered Marital Property for the purpose of division of property between the spouses.
4. Professional Degrees. If no valid antenuptial contract to the contrary exists between the spouses, professional degrees earned by one spouse while the other spouse supported them are not Marital Property, but the Tribal Court shall consider such contributions in its equitable distribution of the Marital Property.
5. Per Capita Payments to Tribal Members. Per capita payments from the Community to its eligible Members are the separate property of the person to whom they are issued. Per capita payments shall not be awarded pursuant to the hardship exception of Section 7(d)(2) (Separate Property).
6. Pensions.

    A. If no valid antenuptial contract to the contrary exists, pension plan benefits or rights in the form of future pension plan payments:

        i. Are payable only to the extent of the amount of the pension plan benefit payable under the terms of the plan;

        ii. Are not payable for a period that exceeds the time that pension plan benefits are payable to the pension plan benefit recipient; and

        iii. Are not payable in a lump sum amount from pension plan assets attributable in any fashion to a spouse with the status of an active member, deferred retiree, or benefit recipient of a pension plan.

    B. If the former spouse to whom the payments are to be made dies prior to the end of the specified payment period with the right to any remaining payments accruing to an estate or to more than one survivor, is payable only to a trustee on behalf of the estate or the group of survivors for subsequent apportionment by the trustee.

C. In the case of public pension plan benefits or rights, property division may not commence until the public plan member submits a valid application for a public pension plan benefit and the benefit becomes payable.

7. Modification of Property Award.

A. All divisions of real and personal property provided by this Section 7(d) (Division of Property Upon Divorce) shall be final, and may be revoked or modified only where the Court finds the existence of one of the following:

i. Mistake, inadvertence, surprise, or excusable neglect;

ii. Newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under the Prairie Island Indian Community Rules of Civil Procedure;

iii. Fraud, whether denominated intrinsic or extrinsic, misrepresentation, or other misconduct of an adverse party;

iv. The judgment and decree or order is void; or

v. The judgment has been satisfied, released, or discharged, or a prior judgment and decree or order upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment and decree or order should have prospective application.

B. A motion for modification must be made within a reasonable time, and for a reason under Sections 7(d)(7)(A)(i), (ii), or (iii), not more than one year after the judgment and decree, order, or proceeding was entered or taken. A motion under Section 7(d)(7) (Modification of Property Award) does not affect the finality of a judgment and decree or order or suspend its operation. Section 7(d)(7) (Modification of Property Award) does not limit the power of the Tribal Court to entertain an independent action to relieve a party from a judgment and decree, order, or proceeding or to grant relief to a party not actually personally notified as provided in the Prairie Island Indian Community Rules of Civil Procedure, or to set aside a judgment for fraud upon the Court.

e. Maintenance.

1. When Awarded. If no valid antenuptial contract or settlement stipulation to the contrary exists between the spouses, maintenance may be awarded in cases the Tribal Court deems appropriate. The Tribal Court shall consider the length of the Marriage; contributions, financial and non-financial, of both spouses; the standard of living to which each spouse has become accustomed; the financial needs of both spouses; and any other factor the Court finds appropriate. The Tribal Court must not consider misconduct of either spouse when making its determination concerning maintenance.

2. Modification of Maintenance Award.

   A. After an order for maintenance, the Tribal Court may from time to time, upon motion of either of the parties or upon motion of the public authority responsible for support enforcement, modify the order respecting the appropriation and payment of the principal and income of property held in trust, and may make an order respecting these matters which it might have made in the original proceeding, except as otherwise stated in this Ordinance.

   B. The terms of a decree respecting maintenance may be modified upon a showing of one or more of the following:

      i. Substantially increased or decreased earnings of a party;

      ii. Substantially increased or decreased need of a party;

      iii. Receipt of public assistance; or

      iv. A change in the cost of living for either party measured by the Federal Bureau of Statistics, any of which makes the terms unreasonable and unfair. On a motion for modification of maintenance, the Tribal Court shall apply, in addition to all other relevant factors, the factors for an award of maintenance under Section 7(e)(1) (Maintenance; When Awarded) that exist at the time of the motion. A modification of maintenance may be made retroactive only with respect to any period during which the moving party has pending a motion for modification but only from the date of service of notice of the motion on the responding party.

3. Termination of Maintenance. Unless otherwise agreed in writing or expressly provided in the decree, the obligation to pay future maintenance terminates upon the death of either party or the remarriage of the party receiving maintenance.

4. Per Capita Payments.[12] The Court may not consider the distribution of net gaming proceeds made from the Community to qualified Community Members under the Prairie Island Indian Community Gaming Revenue Allocation Ordinance ("per capita payments") when establishing or amending an order for maintenance. Per capita payments made to qualified Community Members under the Community's

[12] Note of Amendment: The Community Council amended this subsection on September 12, 2018, by Resolution Number 18-09-12-147, to confirm the status of per capita payments before and after distribution.

Gaming Revenue Allocation Ordinance are a personal benefit. Net gaming proceeds, from which per capita payments are made, are the collective property of the Community until and unless they are distributed to qualified Community Members at the discretion of the Community Council and pursuant to the Gaming Revenue Allocation Ordinance. Qualified Community Members do not have a property right to future per capita distributions and such future distributions are not subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, seizure, attachment, or other legal, equitable, or other process, except with the consent of the qualified Community Member and with the prior consent of the Community Council.

f. Child Support.

1. When Awarded.[13]

A. Child support must be paid by the non-custodial Parent as follows:

Net income per month of non-custodial Parent	**Number of Children**						
	1	**2**	**3**	**4**	**5**	**6**	**7 or more**
$401 - 500	14%	17%	20%	22%	24%	26%	28%
$501 - 550	15%	18%	21%	24%	26%	28%	30%
$551 - 600	16%	19%	22%	25%	28%	30%	32%
$601 - 650	17%	21%	24%	27%	29%	32%	34%
$651 - 700	18%	22%	25%	28%	31%	34%	36%
$701 - 750	19%	23%	27%	30%	33%	36%	38%
$751 - 800	20%	24%	28%	31%	35%	38%	40%
$801 - 850	21%	25%	29%	33%	36%	40%	42%
$851 - 900	22%	27%	31%	34%	38%	41%	44%
$901 - 950	23%	28%	32%	36%	40%	43%	46%

[13] Note of Amendment: The Community Council amended this subsection on December 19, 1996, by Resolution Number 96-12-19-124, to add the calculation table.

$951 - 1000	24%	29%	34%	38%	41%	45%	48%
$1001-4000	25%	30%	35%	39%	43%	47%	50%

B. Guidelines for support to be paid by a non-custodial Parent with a monthly income of $4,001 or more shall be the same dollar amounts as provided for in the guidelines for an obligor with a monthly income of $4,000.

C. Net Income defined as: Total monthly income less:

i. Federal income tax;

ii. State income tax;

iii. Social Security Deductions;

iv. Reasonable pension deductions;

v. Union Dues use of tax tables;

vi. Cost of dependent insurance coverage;

vii. Cost of individual or group health/hospitalization coverage or an amount for actual medical expenses; and

viii. A Child support or maintenance order that is currently being paid.

*Standard deductions apply—use of tax tables recommended

D. Net Income does not include:

i. The income of the non-custodial Parent's spouse, but does include in-kind payments received by the non-custodial Parent in the course of employment, self-employment, or operation of a business if the payments reduce the obligor's living expenses; or

ii. Compensation received by a party for employment in excess of a 40-hour work week, provided that:

01. Support is nonetheless ordered in an amount at least equal to the guidelines amount based on income not excluded under this clause; and

02. The party demonstrates, and the Court finds, that:

a. The excess employment began after the filing of the petition for dissolution;

b. The excess employment reflects an increase in the work schedule or hours worked over that of the two years immediately preceding the filing of the petition;

c. The excess employment is voluntary and not a condition of employment;

d. The excess employment is in the nature of additional, part-time or overtime employment compensable by the hour or fraction of an hour; and

e. The party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation.

2. Other Factors to be Considered. In addition to the Child support guidelines, the Court shall take into consideration the following factors in setting or modifying Child support:

   A. All earnings, income, and resources of the Parents, including real and personal property, but excluding income from excess employment of the obligor or obligee that meets the criteria of subsection (f)(1)(D)(ii) of this Section;

   B. The financial needs and resources, physical and emotional condition, and educational needs of the Child or Children to be supported;

   C. The standards of living the Child would have enjoyed had the Marriage not been dissolved, but recognizing that the Parents now have separate households;

   D. The amount of the aid to families with dependent Children grant for the Child or Children;

   E. Which Parent receives the income taxation dependency exemption and what financial benefit the Parent receives from it; and

   F. The Parents' debts as provided in subsection (f)(3) (Debts Owed to Private Creditors).

3. Debts Owed to Private Creditors. In establishing or modifying a support obligation, the Court may consider debts owed to private creditors, but only if:

   A. The Tribal Court determines that the debt was reasonably incurred for necessary support of the Child or Parent or for the necessary generation of income, the Court shall consider only the amount of debt that is essential to continuing generation of income; and

   B. The party requesting a departure produces a sworn schedule of the debts, with supporting documentation, showing goods or services purchased, the recipient of them, the amount of the original debt, the outstanding balance, the monthly payment, and the number of months until the debt will be fully paid. Any further departure below the guidelines that is based on a consideration of debts owed to private creditors shall not exceed 18 months in duration, after which the support shall increase automatically to the level ordered by the Court. Nothing in this subsection shall be construed to prohibit one or more step increases in support to reflect debt retirement during the 18-month period. Where payment of debt is ordered pursuant to this subsection, the payment shall be ordered to be in the nature of Child support.

4. When Guidelines Shall be Exceeded or Modified. Nothing precludes the Court from receiving evidence on the above factors to determine if the guidelines should be exceeded or modified in a particular case.
5. Nature of Guidelines. The above guidelines are binding in each case unless the Court makes express findings of fact as to the reason for departure below or above the guidelines.
6. Modification of Child Support Award.
    A. After an order for Child support, the Tribal Court may from time to time, on motion of either of the parties or on motion of the public authority responsible for support enforcement, modify the order respecting the appropriation and payment of the principal and income of property held in trust, and may make an order respecting these matters which it might have made in the original proceeding, except as herein otherwise provided.
    B. The terms of a decree respecting Child support may be modified upon a showing that any one or more of the following makes the terms unreasonable and unfair:
        i. Substantially increased or decreased earnings of a party;
        ii. Substantially increased or decreased need of a party;
        iii. Receipt of public assistance;
        iv. A change in the cost of living for either party measured by the Federal Bureau of Statistics;
    C. On a motion for modification of Child support, the Tribal Court must:
        i. Take into consideration the needs of the Children, and may not consider the financial circumstances of each party's spouse, if any; and
        ii. Not consider compensation received by a party for employment in excess of a 40-hour work week, provided that the party demonstrates, and the Court finds, that:
            01. The excess employment began after entry of the existing support order;
            02. The excess employment is voluntary and not a condition of employment;
            03. The excess employment is in the nature of additional, part-time employment, or overtime employment compensable by the hour or fractions of an hour;
            04. The party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation;
            05. In the case of an obligor, current Child support payments are at least equal to the guidelines amount based on income not excluded under this clause; and

06. In the case of an obligor who is in arrears in Child support payments to the obligee, any net income from excess employment must be used to pay the arrearage until the arrearage are paid in full.

D. A modification of Child support may be made retroactive only with respect to any period during which the petitioning party has pending a motion for modification but only from the date of service of notice of the motion on the responding party. However, modification may be applied to an earlier period if the Court makes express findings that the party seeking modification was precluded from serving a motion by reason of a significant physical or mental disability or a material misrepresentation of another party and that the party seeking modification, when no longer precluded, promptly served a motion.

7. Termination. Unless otherwise agreed in writing, with Court approval, or expressly provided in the decree, provisions for Child support are terminated by emancipation of the Child but not by the death of a Parent obligated to support the Child. When a Parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump sum payment, to the extent just and appropriate in the circumstance.

8. Forms. The Clerk of Court must make available to courts, obligors, and persons to whom Child support is owed, a form to be submitted by the obligor or the person to whom Child support is owed in support of a motion for modification of an order pursuant to this Section.

g. Enforcement of Child Support.[14]

1. The Community Council shall attempt to reach understandings with state and county governments regarding the enforcement of Tribal Court support orders. For enforcement matters arising exclusively within the jurisdiction of the Tribal Court, the procedure set forth in Minn. Stat., Chapter 518A – Child Support, may be used by any party seeking to enforce a valid Tribal Court order.

2. The Tribal Court may order a delinquent obligor to authorize the Community Council to withhold their Child support obligation from each per capita payment until the Child support obligation expires or is terminated.

h. Medical Support.

1. Obligor to Name Beneficiary. Unless the Parent who has not been ordered to pay support (obligee) has comparable or better group dependent health insurance coverage available at a more reasonable cost, the Court shall order the person paying support (obligor) to name the Minor Child as beneficiary on any health and dental insurance plan that is available to the obligor on a group basis or through an employer or union.

[14] Note of Amendment: The Community Council amended this subsection on August 6, 2025, by Resolution Number 25-8-6-153, to delete a clause made redundant by Section 14(a) (Use of Language From Other Laws) of this Ordinance.

2. If the Tribal Court finds that dependent health or dental insurance is not available to the obligor on a group basis or through an employer or union, or that the group insurer is not accessible to the obligee, the Court may require the obligor to obtain dependent health or dental insurance, or to be liable for reasonable and necessary medical or dental expenses of the Child. If the Tribal Court finds that the dependent health or dental insurance required to be obtained by the obligor does not pay all the reasonable and necessary medical or dental expenses, the Court shall require the obligor to be liable for all or a portion of the medical or dental expenses of the Child not covered by the required health or dental plan.
3. The Court shall require the obligor to provide dependent health and dental insurance for the benefit of the obligee if it is available at no additional cost to the obligor and in this case the provisions of this subsection apply.
4. A copy of the Court order for insurance coverage shall be forwarded to the obligor's employer or union by the obligee or the public authority responsible for support enforcement only when ordered by the Court or when the following conditions are met:
    A. The obligor fails to provide written proof to the obligee or the public authority, within 30 days of receiving effective notice of the Court order, that the insurance has been obtained or that application for insurability has been made;
    B. The obligee or the public authority serves written notice of its intent to enforce medical support on the obligor by mail at the at the obligor's last known post office address; and
    C. The obligor fails within 15 days after the mailing of the notice to provide written proof to the obligee or the public authority that the insurance coverage existed as of the date of mailing. The employer or union, if based on the Reservation or whose business is substantially carried out on the Reservation, shall forward a copy of the order to the health and dental insurance plan offered by the employer.
5. If the employer is the Community, a Community-owned business, a Community-chartered corporation, or a business located on the Reservation or a business whose activities are substantially carried out on the Reservation, the order is binding on the employer or union when service under subsection (h)(4)(C) has been made. For all other business or unions, the Tribal Court will attempt to obtain voluntary compliance with its orders. Upon receipt of the order, or upon application of the obligor pursuant to the order, the employer or union shall enroll the Minor Child as a beneficiary in the group insurance plan and withhold any required premium from the obligor's income or wages. If more than one plan is offered by the employer or union, the Child shall be enrolled in the insurance plan in which the obligor is enrolled or the least costly plan otherwise available to the obligor. Failure of the obligor to execute any documents necessary to enroll the dependent in the group health and dental insurance plan will not affect the obligation of the qualified employer or union and group health insurance plan to

enroll the dependent in a plan for which other eligibility requirements are met. Information and authorization provided by the public authority responsible for the Child support enforcement, or by the custodial Parent or guardian, is valid for the purposes of meeting enrollment requirements of the health plan. The insurance coverage for a Child eligible under this subsection (h) shall not be terminated except as authorized in subsection (h)(7).

6. A Minor Child that an obligor is required to cover as a beneficiary pursuant to this subsection is eligible for insurance coverage as a dependent of the obligor until the Child is emancipated or until further order of the Tribal Court.
7. The signature of the custodial Parent of the insured dependent is a valid authorization to the insurer for purposes of processing an insurance reimbursement payment to the provider of the medical services. When an order for dependent insurance coverage is in effect and the obligor's employment with the Community, a Community-owned or -chartered business, or a business located or whose activities are substantially carried out on the Reservation is terminated, or the insurance coverage is terminated, the insurer shall notify the obligee within 10 days of the termination date with notice of conversion privileges. All other employers shall be provided notice under this Ordinance and requested to voluntarily comply with such notice.
8. When an order for dependent insurance coverage is in effect, the obligor's employer or union shall release to the obligee or the public authority, upon request, information on the dependent coverage, including the name of the insurer. The employer or union shall release a quarterly report of the wages paid to the employee, including the employee's name, social security number, the total wages paid to the employee, and the number of weeks in which work was performed to the public agency responsible for support enforcement that is enforcing an order for medical or dental insurance coverage under this subsection. For the purposes of this subsection, "wages paid" includes wages actually or constructively paid and wages overdue and delayed beyond the usual time of payment.
9. The obligor that fails to maintain the medical or dental insurance for the benefit of the Children as ordered shall be liable to the obligee for any medical or dental expenses incurred from the date of the Tribal Court order. Proof of failure to maintain insurance constitutes a showing of increased need by the obligee and provides a basis for a modification of the obligor's Child support order.
10. Any Community agency responsible for support enforcement shall take necessary steps to implement and enforce an order for dependent health or dental insurance whenever the Children receive public assistance, or upon application of the obligee to the Community agency and payment by the obligee of any fees required by this Ordinance.
11. Remedies available for the collection and enforcement of Child support, whether provided by the Community or through cooperative agreement with other public agencies, may also apply to medical support. For the purpose of enforcement, the

costs of individual or group health or hospitalization coverage or liabilities pursuant to this subsection (h) are additional Child support.

12. The provisions regarding medical support may be modified or waived by the Court at its discretion if the parties demonstrate to the Court's satisfaction that the Minor Children are currently eligible for comparable medical services through the Indian Health Service of the federal government.

Section 8. Child Custody and Visitation Upon Divorce.

a. Custody.

1. Determinations regarding custody of the Children of the parties will be made based on the best interests of the Children. When making a custody determination, the Tribal Court must consider Tribal membership/affiliation of the Parents or petitioning parties if not a Parent and may give preference to Community Members only if it is in the best interests of the Child to do so.

2. "Best interests of the Child" means all relevant factors to be considered by the Tribal Court including, but not limited to:

A. The wishes of the Child's Parent or Parents as to custody;

B. The reasonable preference of the Child, if the Court deems the Child to be of sufficient age to express preference;

C. The Child's primary caretaker;

D. The intimacy of the relationship between each Parent and the Child;

E. The interaction and interrelationship of the Child with a Parent or Parents, siblings, and any other person who may significantly affect the Child's best interests;

F. The Child's adjustment to home, school, and community;

G. The length of time the Child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;

H. The permanence, as a family unit, of the existing or proposed custodial home;

I. The mental and physical health of all individuals involved;

J. The capacity and disposition of the parties to give the Child love, affection, and guidance, and to continue educating and raising the Child in the Child's culture and religion or creed, if any;

K. The Tribal membership/affiliation of the Parent or petitioning party if other than a Parent;

L. The Child's Tribal or cultural background; and

M. The effect of domestic abuse on the Child if such abuse has occurred within the household of the Child. Domestic abuse means:

i. Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault, between Family or Household Members; or

ii. Criminal sexual conduct, as defined by Minn. Stat., Sections 609.342, 609.343, 609.344, or 609.345, as those sections may be amended from time to time, committed against a Minor Family or Household Member by an Adult Family or Household Member.

b. Visitation.

1. In any proceeding for Divorce, the Tribal Court shall, upon the request of either Parent, grant rights to visitation on behalf of the Child and noncustodial Parent to maintain a Parent-Child Relationship that will be in the best interests of the Child. If the Court finds, after a hearing, that visitation is likely to endanger the Child's physical or emotional health or impair the Child's emotional development, the Court may restrict visitation by the noncustodial Parent as to time, place, duration, or supervision and may deny visitation entirely, as the circumstances warrant. A Parent's failure to pay support because of the Parent's inability to do so will not be sufficient cause for denial of visitation.

2. Upon the request of either Parent, the Court may inform any Child of the parties, if eight years of age or older, or otherwise of an age of suitable comprehension, of the rights of the Child and the noncustodial Parent under the order or decree or any substantial amendment thereof. The custodial Parent must present the Child for visitation by the noncustodial Parent, at such times as the Court directs.

3. The custodial Parent may not move the residence of the Child to a residence within another state or to another Reservation except upon order of the Tribal Court or with the consent of the noncustodial Parent, when the noncustodial Parent has been given visitation rights by the decree. If the Court determines after hearing that the purpose of the move is to interfere with visitation rights given to the noncustodial Parent by the decree, the Court must not permit the change of residence.

4. Proof of an unwarranted denial of or interference with duly established visitation may constitute contempt of Court and may be sufficient cause for reversal of custody.

5. Modification. The Tribal Court may modify an order granting or denying visitation rights whenever modification would serve the best interests of the Child. Except as otherwise provided in this Ordinance, the Tribal Court may not restrict visitation rights unless it finds that:

A. The visitation is likely to endanger the Child's physical or emotional health or impair the Child's emotional development; or

B. The noncustodial Parent has chronically and unreasonably failed to comply with Court-ordered visitation.

c. Effect of Certain Convictions on Custody and Visitation Rights.

1. Suspension of Visitation Rights; Transfer of Custody.

A. If a person with Court-ordered custody or visitation rights is convicted of a crime listed in Section 8(c)(2) (Application) and if no action is pending regarding custody or visitation, the sentencing Court, if the Tribal Court, shall:

i. Grant temporary custody to the non-custodial Parent, unless it finds that another custody arrangement is in the best interests of the Child; or

ii. Suspend visitation rights, unless it finds that visitation with the convicted person is in the best interests of the Child.

B. When the sentencing Court is a federal or state court, the Tribal Court, upon official notification of such conviction, must:

i. Grant temporary custody to the non-custodial Parent, unless it finds that another custody arrangement is in the best interests of the Child; or

ii. Suspend visitation rights, unless it finds that visitation with the convicted person is in the best interests of the Child.

C. The Tribal Court must expedite proceedings under this subsection. The convicted person has the burden of proving that continued custody or visitation with them is in the best interests of the Child. If the victim of the crime was a Family or Household Member, the standard of proof is clear and convincing evidence. [15]

D. If a person who has Child custody or visitation rights was convicted of a crime listed in Section 8(c)(2) (Application) before the enactment of this Ordinance, then any interested party may petition this Court for relief under Section 8(c)(1) if:

i. The convicted person is currently incarcerated, on probation, or under supervised release for the offense; or

ii. The victim of the crime was a Family or Household Member as defined above.

2. Application.[16] Section 8(c)(1) (Suspension of Visitation Rights; Transfer of Custody) applies to the following crimes or similar crimes under the laws of any other jurisdiction:

A. Murder in the first, second, or third degree, for example as defined in Minn. Stat., Sections 609.185, 609.19, or 609.195, as those sections may be amended from time to time;

[15] Note of Amendment: The Community Council amended this subsection on August 6, 2025, by Resolution Number 25-8-6-153, to move the definition of "Family or Household Member(s)" to Section 3 (Definitions) of this Ordinance.

[16] Note of Amendment: The Community Council amended this subsection on August 6, 2025, by Resolution Number 25-8-6-153, to update references to Minnesota law.

B. Manslaughter in the first degree, for example as defined in Minn. Stat., Section 609.20, as that section may be amended from time to time;

C. Assault in the first, second, or third degree, for example as defined in Minn. Stat., Sections 609.221, 609.222, or 609.223, as those sections may be amended from time to time;

D. Kidnapping, for example as defined in Minn. Stat., Section 609.25, as that section may be amended from time to time;

E. Depriving another of custodial or parental rights, for example as defined in Minn. Stat., Section 609.26, as that section may be amended from time to time;

F. Soliciting, inducing, or promoting prostitution involving a Minor, for example as defined in Minn. Stat., Section 609.322, as that section may be amended from time to time;

G. Receiving profit from prostitution involving a Minor, as defined in Minn. Stat. § 609.323;

H. Criminal sexual conduct in the first degree, for example as defined in Minn. Stat., Section 609.342, as that section may be amended from time to time, for example;

I. Criminal sexual conduct in the second degree, for example as defined in Minn. Stat., Section 609.343, as that section may be amended from time to time;

J. Criminal sexual conduct in the third degree, for example as defined in Minn. Stat., Section 609.344, as that section may be amended from time to time;

K. Solicitation of a Child to engage in sexual conduct, for example as defined in Minn. Stat., Section 609.352, as that section may be amended from time to time;

L. Incest, for example as defined in Minn. Stat., Section 609.365, as that section may be amended from time to time;

M. Malicious punishment of a Child, for example as defined in Minn. Stat., Section 609.377, as that section may be amended from time to time; or

N. Neglect of a Child, for example as defined in Minn. Stat., Section 609.378, as that section may be amended from time to time.

d. Per Capita Payments to Children. Unless the Prairie Island Indian Community Gaming Revenue Allocation Ordinance directs otherwise, any per capita payments that the Children of a Marriage may receive will be under the control of the custodial Parent, to be used in the Children's best interests. If this Ordinance conflicts with the Gaming Revenue Allocation Ordinance, the Gaming Revenue Allocation Ordinance controls.

e. Modification of Custody Orders.

1. Unless agreed to in writing by the parties, no motion to modify a custody order may be made earlier than one year after the date of the entry of a decree of dissolution containing a provision dealing with custody, except in accordance with subsection (e)(3).

2. If a motion for modification has been heard, whether or not it was granted, unless agreed to in writing by the parties, no subsequent motion may be filed within two years after disposition of the prior motion on its merits, except in accordance with subsection (e)(3).

3. The time limitations prescribed in subsections (e)(1) and (e)(2) do not prohibit a motion to modify a custody order if the Court has reason to believe that there may be persistent and willful denial or interference with visitation, or has reason to believe that the Child's present environment may endanger the Child's physical or emotional health or impair the Child's emotional development. The Court may make such determination(s) based upon the affidavits of the parties.

4. The Court may not modify a prior custody order after hearing on the motion unless it finds, upon the basis of facts that have arisen since the prior order or that were unknown to the Court at the time of the prior order, that a change has occurred in the circumstances of the Child or the custodian and that the modification is necessary to serve the best interests of the Child. In applying these standards, the Court must retain the custodian established by the prior order unless the Court finds:

   A. The custodian agrees to the modification;

   B. The Child has been integrated into the family of the petitioner with the consent of the custodian; or

   C. The Child's present environment endangers the Child's physical or emotional health or impairs the Child's emotional development and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the Child.

Section 9. Rules of Procedure for Divorce, Annulment, Property Division, Visitation, and Child Custody Actions.

a. Applicability of Rules. These rules apply to all proceedings dealing with Divorce and Child custody. If any conflict exists between these rules and the Prairie Island Indian Community Rules of Civil Procedure, these rules control.

b. Commencement; Continuance; Time; Parties.

1. Commencement of Proceedings.

   A. Marriage dissolution proceedings may be commenced by service of a summons and petition upon the person of the other party, or by publication pursuant to Tribal Court order. Service of process in other domestic relations

matters is governed by the Prairie Island Indian Community Rules of Civil Procedure unless otherwise noted.

B. No summons is required if a joint petition is filed. Proceedings on a joint petition are commenced when both parties have signed the verified petition and filed it with the Court.

C. Service of the summons and petition may be made by publication only when ordered by the Tribal Court. If the respondent is located after service by publication, personal service must be made before the final hearing.

2. Continuances. If a trial date has been established by a Court a scheduling order after consultation with the parties, the Court must decline to consider requests for continuance except those made by motion or when a judge determines that an emergency exists. A single request for a reasonable continuance of a trial date, by notice without hearing, may be granted by the Court upon agreement of all parties, provided that the request is made within 20 days after notice of the trial date to the parties. All other requests for continuance must be made by motion with notice to all parties. No continuance of a motion hearing may be granted unless requested within 3 days of receiving notice under Section 9(c)(1)(A) (Notice), unless good cause is shown.

3. Time. Time is governed by the Prairie Island Indian Community Rules of Civil Procedure, except where a different time is specified in this Ordinance. Procedural time limits may be shortened for good cause shown.

4. Designation of Parties.

A. Parties to dissolution and custody proceedings are designated as petitioner (or joint petitioners) and respondent. After the Court designates the parties with these labels, it may refer to them as wife and husband by stating in any petition, order, decree, etc., that Petitioner is hereinafter referred to as (wife/husband), and respondent as (husband/wife).

B. A guardian ad litem for Minor Children may be designated a party to the proceedings in the Order of Appointment.

c. Motions; Ex Parte Relief; Orders to Show Cause; Orders and Decrees.

1. Scheduling of Motions.

A. Notice.

i. All motions must be accompanied by either an order to show cause or by a notice of motion that states with particularity the time and place of the hearing and the name of the judge, referee, or judicial officer, as assigned by the Clerk of Court.

ii. Except in cases in which the parties reside in the same residence and there is a possibility of abuse, a party who obtains a date and time for hearing a motion must promptly give notice of the hearing date and time and the name of the judge or referee, if known, to all other parties in the action. If

the parties reside in the same residence and there is a possibility of abuse, notice may be given in accordance with the Prairie Island Indian Community Rules of Civil Procedure.

B. Notice of Time to Respond. All motions and orders to show cause must contain the following statement:

"All responsive pleadings must be served and mailed to or filed with the Prairie Island Mdewakanton Dakota Community Tribal Court Clerk of Court no later than five days prior to the scheduled hearing. The Court may, in its discretion, disregard any responsive pleadings served or filed with the Clerk of Court less than five days prior to such hearing in ruling on the motion or matter in question."

2. Form of Motion.

A. Specificity and Supporting Documents. Motions must set out with particularity in individually numbered paragraphs the relief requested. All motions must be supported by appropriate affidavits that are relevant and material to the issues before the Court. The paragraphs of the affidavits should be specific and factual. Where possible, the paragraphs should be numbered to correspond to the paragraphs of the motion.

B. Application for Temporary Relief. When temporary financial relief is initially requested, such as for Child support, maintenance, and attorney's fees, the application for temporary relief form developed by the Court and available upon request from the Court must be served and filed by the moving and responding parties. Additional facts, limited to relevant and material matters, shall be added to the application form or by supplemental affidavit. Sanctions for failure to comply with this subsection include, but are not limited to, the striking of pleadings or hearings.

3. Motion Practice.

A. Requirements for Motions.

i. Moving Party; Supporting Documents; Time Limits. No motion may be heard unless the moving party serves a copy of the following documents on opposing counsel, or on the responding party if they are not represented by counsel, and files the motion with the Clerk of Tribal Court at least 14 days prior to the hearing:

01. Notice of motion in form required by Section 9(c)(1)(A) (Notice);

02. Motion;

03. Any relevant affidavits and exhibits; and

04. Any memorandum of law the party intends to submit.

ii. Motion Raising New Issues. A responding party raising new issues other than those raised in the initial motion must serve a copy of the following

documents on opposing counsel, or on the responding party if they are not represented by counsel, and must file the documents with the Clerk of Tribal Court at least 10 days prior to the hearing:

01. Notice of the motion in form required by Section 9(c)(1)(A) (Notice);

02. Motion;

03. Any relevant affidavits and exhibits; and

04. Any memorandum of law the party intends to submit.

iii. Responding Party; Supporting Documents; Time Limits. The party responding to issues raised in the initial motion, or the party responding to a motion which raises new issues, must serve a copy of the following documents on opposing counsel, or on the responding party if not they are not represented by counsel, and must file the documents with the Clerk of Tribal Court at least five days prior to the hearing, inclusive of Saturdays, Sundays, and holidays:

01. Any memorandum of law the party intends to submit;

02. Any relevant affidavits and exhibits.

iv. Computation of Time for Service and Filing by Mail. Whenever this rule requires documents to be filed with the Clerk of Tribal Court within a prescribed period of time before a specific event, filing may be accomplished by mail, subject to the following:

01. Three days are added to the period prescribed in this Ordinance; and

02. Filing is only timely if the documents are deposited in the mail within the prescribed period. If the matter of timeliness is contested, only the official postmark of the U.S. Mail, Federal Express, or U.P.S. may be considered by the Court.

03. Service by mail is complete upon mailing.

B. Failure to Comply. In the event an initial moving party fails to timely serve and file documents as required in this subsection, the hearing may be canceled by the Court. If responsive papers are not properly served and filed, the Tribal Court may deem the initial motion or motion raising new issues unopposed and may issue an order without hearing. The Court, in its discretion, may refuse to permit oral argument by the party not filing the required documents, may consider the matter unopposed, may allow reasonable attorney's fees, or may take other appropriate action.

C. Settlement Efforts. No motion, except motion for temporary relief, will be heard unless the parties or their representatives have conferred either in person, or by telephone, or in writing to attempt to resolve their differences prior to the hearing. The moving party must initiate such conference. The moving party must certify to the Tribal Court, before the time of the hearing,

compliance with this paragraph or any reasons for not complying, including lack of availability or cooperation of the opposing party or counsel. Whenever any pending motion is settled, the moving party must promptly advise the Tribal Court.

D. Motion with Request for Oral Testimony. Motions, except for contempt proceedings, must be submitted on affidavits, exhibits, documents subpoenaed to the hearing, memoranda, and arguments of counsel unless otherwise ordered by the Tribal Court for good cause shown. If demand is made for the taking of oral testimony, and if the matter cannot be heard adequately in the scheduled time, the hearing may be utilized as a prehearing conference. Requests for hearing time in excess of one half hour must be submitted by written motion specifically setting forth the necessity and reason that evidence cannot be submitted by affidavit. The motion must include names of witnesses, nature and length of testimony, including cross-examination, and types of exhibits, if any. The Tribal Court may issue an order limiting the number of witnesses each party may call, the scope of their testimony, and the total time for each party to present evidence. Such an order may be made only after each party or their representative has had an opportunity to suggest appropriate limits. Any motion relating to custody or visitation must additionally state whether either party desires the Tribal Court to interview Minor Children. No Child under the age of 14 years will be allowed to testify without prior written notice to the other party and Tribal Court approval.

4. Ex Parte Relief.

A. Motion. The Tribal Court may grant ex parte relief only if requested by a motion with supporting affidavit that is properly executed.

B. Order to Show Cause. An order to show cause may not be used to grant ex parte relief except where:

i. The Court makes a finding of contempt;

ii. The supporting affidavit makes an affirmative showing of a need to require the party to appear in person at the hearing;

iii. The supporting affidavit makes an affirmative showing that the need for interim support is warranted;

iv. The Court deems necessary the production of limited financial information; or

v. The supporting affidavit makes an affirmative showing that other limited relief or restraining orders are appropriate, as addressed individually in the separate supportive affidavit for ex parte relief.

C. Filing. All ex parte orders and supporting documents must be personally served. A conformed file copy of such order shall be retained by the Clerk of Tribal Court in the file.

D. Interim Support Order. To ensure support for an unemployed party or a party with Children pending a full temporary hearing, an initial order to show cause may, if the situation warrants, contain the following:

> IT IS FURTHER ORDERED that pending the aforesaid scheduled hearing, you shall pay to the (petitioner) (respondent) commencing forthwith percent of your net earnings after the usual deductions for FICA, withholding taxes and group insurance, such payments to be made within 24 hours of your receipt of such earnings for each pay period. These payments are to ensure that provision is made by you for the support of your (wife) (husband) (and) (Children) pending the aforesaid hearing.

The percentage to be used will be in accordance with the Child support guidelines of this Ordinance and such other factors related to maintenance as the Tribal Court deems appropriate. There must be a showing in the Application for Temporary Relief and separate affidavit of the necessity for the interim order for support.

E. Procedure. Orders to show cause are obtained in the same manner specified for ex parte relief. Such orders may require production of limited financial information deemed necessary by the Tribal Court. An order to show cause may be issued only where the motion seeks a finding of contempt or the supporting affidavits makes an affirmative showing:

i. Of a need to require the party to appear in person at the hearing;

ii. That the need for interim support is warranted;

iii. That the production of limited financial information is deemed necessary by the Tribal Court; or

iv. That other limited relief or restraining orders are appropriate, as addressed individually in the separate supportive affidavit for ex parte relief.

F. Orders and Decrees Requiring Child Support or Maintenance. All orders and judgments and decrees that include awards of Child support and/or maintenance, unless otherwise directed by the Tribal Court, must include the following provisions:

i. Payment of support or maintenance, or both, is to be as ordered herein, and the giving of gifts or making purchases of food, clothing, and the like will not fulfill the obligation.

ii. Payment of support must be made as it becomes due, and failure to secure, or denial of rights of, visitation is not an excuse for nonpayment, but the aggrieved party must seek relief through proper motion filed with the Tribal Court.

iii. The payment of support or maintenance, or both, takes priority over payment of debts and other obligations.

iv. A party who remarries after dissolution and accepts additional obligations of support does so with full knowledge of their prior obligations under this proceeding.

v. Child support and maintenance are based on annual income, and it is the responsibility of a person with seasonal employment to budget income so that payments are made regularly throughout the year as ordered.

d. Scheduling of Cases.

1. Scope. The purpose of this subsection is to provide a uniform system for scheduling matters for disposition and trial in proceedings in Tribal Court for all domestic relations decisions.

2. Parties' Informational Statements. Within 30 days after filing an action or within 30 days after a temporary hearing, whichever is later, each party must submit on a form developed by the Court and available upon request from the Court, the information needed by the Tribal Court to manage and schedule the case. The information provided must include:

A. Whether Minor Children are involved, and if so:

i. Whether custody is in dispute; and

ii. Whether the case involves any issues seriously affecting the welfare of the Children;

B. Whether the case involves complex valuation issues, and/or marital and non-marital property issues;

C. Whether the case needs to be expedited, and if so, the specific facts supporting that need;

D. Whether the case is complex, and if so, the specific supporting facts;

E. Specific facts about the case that will affect readiness for trial; and

F. A proposal for establishing any of the deadlines or dates to be included in a scheduling order under this subsection.

3. Scheduling Order.

A. When Issued. Within 45 days after filing an action or 45 days after a temporary hearing, whichever is later, the Tribal Court must enter its scheduling order. The Tribal Court may issue the order after either a telephone or in-court conference, or without a conference or hearing if none is needed.

B. Contents of Order. The scheduling order may establish any of the following:

i. Deadlines or specific dates for the completion of discovery and other pretrial preparation;

ii. Deadlines or specific dates for serving, filing, or hearing motions;

iii. Deadlines or specific dates for completion and review of custody/visitation mediation and evaluation or property mediation and evaluation;

iv. A deadline or specific date for the prehearing conference; and

v. A deadline or specific date for the trial or final hearing.

4. Amendment. A scheduling order under this subsection may be amended at a prehearing conference or upon motion for good cause shown, or upon approval by authorized Tribal Court personnel if there is agreement of all parties.

e. Prehearing Conferences.

1. Prehearing Statement. Each party must complete a prehearing statement substantially in the form developed by the Court and available upon request from the Court. The prehearing statement must be served upon all parties and mailed to or filed with the Tribal Court at least 10 days before the date of the prehearing conference.

2. Prehearing Conference Attendance.

A. Parties and Counsel. Unless excused by the Tribal Court for good cause, the parties and lawyers who will try the proceedings must attend the prehearing conference and be prepared to negotiate a final settlement. If a stipulation is reduced to writing before the prehearing conference, the case may be heard as a default at the time scheduled for the conference. In that event, only the party obtaining the decree need appear.

B. Failure to Appear—Sanctions. If a party fails to appear at a prehearing conference, the Tribal Court may dispose of the proceedings without further notice to that party.

C. Failure to Comply—Sanctions. Failure to comply with the rules relating to prehearing conferences may result in the case being stricken from the contested calendar, granting of partial relief to the appearing party, striking of the non-appearing party's pleadings and the hearing of the matter as a default, award of attorney fees and costs, and such other relief as the Tribal Court finds appropriate, without further notice to the defaulting party.

3. Prehearing Conference Order. If the parties are unable to resolve the case, in whole or in part, at the prehearing conference, the Tribal Court must issue an order that schedules any remaining discovery and any contemplated motions, identifies the contested issues for trial, and provides for the exchange of witness lists and exhibits to be offered at trial.

f. Default.

1. Scheduling of Final Hearing. To place a matter on the default calendar for final hearing, the moving party must comply with the following, as applicable:

A. Without Stipulation—No Appearance. In all default proceedings where a stipulation has not been filed, an affidavit of default and of non-military status

of the defaulting party or a waiver by that party of any rights under the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, must be filed with the Tribal Court.

B. Without Stipulation—Appearance. Where the defaulting party has appeared by a pleading other than a response, answer, or personally without a pleading, and has not affirmatively waived notice of the other party's right to a default hearing, the moving party must notify the defaulting party in writing at least 10 days before the final hearing of their intent to proceed to judgment. The notice must state:

> You are hereby notified that an application has been made for a final hearing to be held not sooner than three days from the date of this notice. You are further notified that the Tribal Court will be requested to grant the relief requested in the petition at the hearing.

The default hearing will not be held until the notice has been mailed to the defaulting party at the last known address and an affidavit of service by mail has been filed.

C. Default With Stipulation. Whenever a stipulation settling all issues has been executed by the parties after the pre-hearing conference, the stipulation must be filed with an affidavit of non-military status of the defaulting party or a waiver of that party's rights under the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, if not included in the stipulation. In a stipulation where a party appears pro se, the following waiver must be executed by that party:

> I know I have the right to be represented by a lawyer of my choice. I hereby expressly waive that right and I freely and voluntarily sign the foregoing stipulation.

2. Preparation of Decree. In a scheduled default matter, proposed findings of fact, conclusions of law, order for judgment, and judgment and decree must be submitted to the Tribal Court before or at the final hearing.

g. Final Hearings.

1. Failure to Appear—Sanctions. Failure to appear at the scheduled final hearing may result in the case being stricken from the contested calendar, granting of partial relief to the appearing party, striking of the non-appearing party's pleadings and the hearing of the matter as a default, an award of the attorney's fees and costs, and such other relief as the Tribal Court finds appropriate, without further notice to the defaulting party.

2. Stipulations Entered in Open Tribal Court—Preparation of Findings. Where a stipulation has been entered orally upon the record, the lawyer directed to prepare the decree must submit it to the Tribal Court with a copy to each party. Unless a written, fully executed stipulation is filed or unless the decree contains the written approval of the lawyer for each party, a transcript of the oral stipulation must be filed by the lawyer directed to prepare the decree. Responsibility for the cost of

the transcript may be determined by the Tribal Court. Entry of the decree must be deferred for 14 days to allow for objections unless the decree contains the written approval of the lawyer for each party.

h. Final Decree—Notices and Service.

1. Awards of Child Support and/or Maintenance. Unless otherwise directed by the Tribal Court, all judgments and decrees that include awards of Child support and/or maintenance, must include notification to both parties that:

A. Payment of support or maintenance, or both, is to be as ordered herein, and the giving of gifts or making purchases of food, clothing, and the like will not fulfill the obligation.

B. Payment of support must be made as it becomes due, and failure to secure, or denial of rights of, visitation is not an excuse for nonpayment, but the aggrieved party must seek relief through proper motion filed with the Tribal Court.

C. The payment of support or maintenance, or both, takes priority over payment of debts and other obligations. An aggrieved obligee of Child support or maintenance payments may seek relief through proper motion filed with the Tribal Court.

D. A party who remarries after dissolution and accepts additional obligations of support does so with full knowledge of her or his prior obligations under this proceeding.

E. Child support and maintenance are based on annual income, and it is the responsibility of a person with seasonal employment to budget income so that the payments are made regularly throughout the year as ordered.

2. Public Assistance. When a party is receiving or has applied for public assistance, the party obtaining the judgment and decree must serve a copy on the agency responsible for Child support enforcement, and the decree must direct that all payments of Child support and spousal maintenance must be made to the agency providing the assistance for as long as the custodial Parent is receiving assistance.

3. Child Support Enforcement. When a private party has applied for or is using the services of the local Child support enforcement agency, a copy of the decree must be served by mail upon the agency involved by the party submitting the decree for the Court's execution.

4. Supervised Custody or Visitation.

A. A copy of any judgment and decree directing ongoing supervision of custody or visitation must be provided to the appropriate agency by the party obtaining the decree.

B. Required Notices. Where this Ordinance or the Prairie Island Indian Community Rules of Civil Procedure require that certain subjects be addressed

by notices in an order or decree, the notices need not be included verbatim but may be set forth in an attachment and incorporated by reference.

C. Sensitive Matters. Whenever the findings of fact include private or sensitive matters, a party may submit to the agency a judgment and decree supported by separate documents comprising findings of fact, conclusions of law, and order for judgment.

i. Contempt.

1. Initiation.

A. Moving Papers—Service; Notice.

i. Contempt proceedings must be initiated by a motion for order to show cause, together with motions accompanied by appropriate supporting affidavits, personally served on the person alleged to be in contempt.

ii. An order to show cause must direct the person alleged to be in contempt to appear and show cause why they should not be held in contempt of Tribal Court and why the moving party should not be granted the relief requested by the motion.

iii. An order to show cause must contain at least the following:

01. A reference to the specific order of the Tribal Court alleged to have been violated and date of entry of the order;

02. A quotation of the specific provision of the order at issue; and.

03. The alleged failures to comply.

B. Affidavits. The supporting affidavit of the moving party must set forth each alleged violation of the order with particularity. Where the alleged violation is a failure to pay sums of money, the affidavit must state the kind of payment that is in default and must specifically set forth the payment dates and the amounts due, paid, and unpaid for each failure.

2. Hearing. The person alleged to be in contempt must appear in person before the Tribal Court to be afforded the opportunity to resist the motion for contempt by sworn testimony. The Tribal Court may not act upon affidavit alone, absent express waiver by the person alleged to be in contempt of their right to offer sworn testimony.

3. Disposition. The Tribal Court may impose a civil fine or other penalty, as it deems appropriate.

j. Mediation.

1. Order for Mediation.

A. When Issued. The Tribal Court may issue an order for mediation upon a motion by a party, by stipulation of the parties, or upon the Tribal Court's own initiative. The Tribal Court may not require mediation when it finds probable

cause that domestic or Child abuse has occurred. Where the parties have made an unsuccessful attempt to mediate with a qualified mediator, additional mediation need not be required.

B. Prerequisite of Final Hearing. When ordered by the Tribal Court, participation in mediation may be prerequisite to the scheduling of a final hearing in a dissolution proceeding.

2. Mediators.

A. Appointment. If mediation is ordered, the Tribal Court must appoint a mediator from its approved list, unless the parties stipulate to a mediator not on the list. Each party may file a request for substitution within seven days after receipt of notice of the appointed mediator. The Tribal Court shall then appoint a different mediator with notice given to the parties.

B. Qualification and Training. The Tribal Court must establish an approved list of mediators who also qualify for appointment by statute within the State of Minnesota or designation by federal district court.

3. Mediation Attendance.

A. Mandatory Orientation. Parties ordered by the Tribal Court to participate in mediation must attend the orientation session.

B. Mediation Sessions. Mediation sessions are informal and conducted at a suitable location designated by the mediator. Both parties must appear at the time scheduled by the mediator, and attendance is limited to the parties, unless all parties and the mediator agree to the presence of other persons.

C. Other Professionals. To assist in resolving contested issues, the parties may involve resource persons including lawyers, appraisers, accountants, and mental health professionals.

4. Scope of Mediation. Mediation may address all issues of controversy between the parties, unless limited by Tribal Court order.

5. Confidentiality.

A. Mediation proceedings under these rules are privileged, not subject to discovery, and inadmissible as evidence in domestic relations proceedings without the written consent of both parties.

B. Mediators and lawyers for the parties, to the extent of their participation in the mediation process, cannot be called as witnesses in the family Tribal Court proceedings.

C. No record of the mediation may be made without the agreement of both parties, except for a memorandum of issues that are resolved.

6. Termination of Mediation. Mediation terminates upon the earliest of the following circumstances:

A. A complete agreement of the parties;

B. The partial agreement of the parties and a determination by the mediator that further mediation will not resolve the remaining issues; or

C. The determination by the mediator that the parties are unable to reach agreement through mediation or that the proceedings are inappropriate for mediation.

7. Mediator's Memorandum.

A. Submissions. Upon termination of mediation, the mediator must submit a memorandum to the parties and the Tribal Court setting out:

i. The complete or partial agreement of the parties and enumerating the issues upon which the parties cannot agree; or

ii. That no agreement has been reached, without any explanation.

B. Copy to Lawyer. Where a party is represented by a lawyer, the mediator must send a copy of the memorandum to that party's lawyer as well as the party.

C. Agreement. The parties' agreement must be reduced to writing by counsel for the petitioner, or the counsel for the respondent with the consent of the petitioner, in the form of a marital termination agreement, stipulation, or similar instrument. The written agreement must be signed by both parties and their counsel and submitted to the Tribal Court for approval.

8. Child Custody Investigation. When the parties are unable to reach agreement on custody through mediation, the mediator may not conduct a custody investigation except by order of the Court with notice to the parties and opportunity to be heard. The Court may request the services of any qualified investigator from other Tribal, federal, state, or county agencies to conduct custody investigations. The Tribal Court must advise the Community each year as to the necessary funds for such services and must make the formal requests for such additions to the annual budget.

k. Appeals. Appeal of custody, visitation, Child support, maintenance, property division, adoption, paternity, and Child welfare matters to the Appellate Court must comport with Rule 38 of the Prairie Island Indian Community Rules of Civil Procedure.

Section 10. Antenuptial Contracts.

a. Scope of Antenuptial Contracts.

1. Marital and Separate Property. Antenuptial contracts may cover both Marital Property and separate property of the spouses, except that the parties may not contract regarding any per capita payments from the Community that either party may receive.

2. Death and Divorce of Either Spouse. An antenuptial contract may anticipate the death of a spouse and/or divorce, as long as the contract does not encourage divorce.

3. Children. Antenuptial contracts may include provisions governing Children of the spouses, but such provisions will only be upheld if they are determined by a court to be in the best interests of the Children involved at the time of enforcement of the contract. Antenuptial contracts may not include provisions governing the per capita payments by the Community to Children.

b. Requirements of Valid Antenuptial Contracts.

1. Disclosure. Each party must fully disclose their assets to the other party, and schedules of each party's assets must be attached to the antenuptial contract.

2. Separate Counsel. If possible, each party should be represented by their own attorney.

3. Substantive and Procedural Fairness. No antenuptial agreement that is substantively or procedurally unfair either at the time of execution or at the time of enforcement is valid. The time of execution is the moment of the signing of the contract. The time of enforcement is the moment at which the contract will be activated. The Tribal Court will determine the fairness of the contract.

c. Burden of Proof. The person challenging the validity of the contract must demonstrate by clear and convincing evidence that the contract is unfair, or that the circumstances surrounding execution and/or enforcement render the contract unfair.

Section 11. Paternity.

a. Children Born During a Marriage.

1. The husband of a Child's mother is presumed to be the father of any Child born during the Marriage.

2. A biological father who is not the husband of the Child's mother may challenge the presumption of paternity of the husband only with the written consent of the mother.

b. Children Born Outside of a Marriage.

1. The paternity of a Child born outside of a Marriage may be established by blood testing, as ordered by the Tribal Court upon a motion by the mother of the Child.

2. The paternity of a Child born outside of a Marriage may be established by acknowledgement of paternity by a man not excluded by blood testing, with the permission of the Child's mother. The permission and the acknowledgement must be filed with the Clerk of Court of the Tribal Court to be valid.

3. The mother of a Child born out of wedlock has Legal Custody of the Child unless the Tribal Court grants Legal Custody to another person or transfers Legal Custody to an agency.

c. Application of the Laws of Intestate Succession to Children Born Outside of a Marriage.

1. A Child Whose Paternity Has Been Established. A Child born outside of a Marriage whose paternity has been established may inherit by intestate succession from their father.

2. A Child Whose Paternity Has Not Been Established. A Child born outside of a Marriage whose paternity has not been established may inherit from their father by intestate succession only if they can establish to the Tribal Court by clear and convincing evidence that the alleged father acknowledged them as his Child. Proof of acknowledgement may include, but is not limited to, testimony by other family members that the Child was accepted as the Child of the man from whom they wish to inherit.

d. Determinations of Paternity.[17] In Tribal Court actions brought for determination of the paternity of a Child, the judgment of the Tribal Court establishing the identity of the father of the Child is conclusive in all subsequent proceedings in Tribal Court relating to the determination of heirs and rights of inheritance.

e. Procedure to Determine Father and Child Relationship.[18] Until amendment of this Ordinance, the Tribal Court may apply the procedure set forth in Minn. Stat., Sections 257.57 - 257.73, as those sections may be amended from time to time, to determine father and Child relationship.

Section 12. Adoption.[19]

a. Purpose and Policy.

1. Purpose. The purpose of this Section is to ensure that the Community can protect the rights and promote the welfare of its Children and other Indian Children as well as all natural and adoptive Parents. It is the further purpose of this Section to ensure that a tribal forum exists to address adoption issues that arise from all states' compliance with the Indian Child Welfare Act ("ICWA"), 25 U.S.C. §1901, et seq.

2. Policy. The policy of the Community with regard to the Indian Child Welfare Act, 25 U.S.C. §1901, et seq., is:

[17] Note of Amendment: The Community Council amended this subsection on March 29, 2023, by Resolution Number 23-3-29-58, to clarify that determinations of paternity are conclusive in future proceedings in the Tribal Court.

[18] Note of Amendment: The Community Council amended this subsection on August 6, 2025, by Resolution Number 25-8-6-153, to delete a clause made redundant by Section 14(a) (Use of Language From Other Laws) of this Ordinance.

[19] Note of Amendment: The Community Council amended this subsection on August 6, 2025, by Resolution Number 25-8-6-153, to move all definitions to Section 3 (Definitions) of this Ordinance except "Guardianship of the Person," "Protective Supervision," and "Tribal Court," which were deleted as unnecessary or duplicative.

A. The Community must intervene in all matters addressed by the ICWA involving a tribal Child, whether or not they are enrolled, unless that intervention would be impracticable under the circumstances of the case.

B. In all ICWA cases that mandate transfer to Tribal Court and where the Community is the "Indian Child's Tribe" within the meaning of Minnesota Indian Family Preservation Act or the ICWA, the Community must petition for transfer of proceedings from the state court, unless that transfer would be impracticable under the circumstances of the case.

C. The full panel of judges from the Tribal Court may formally accept the transfer of jurisdiction from any state court. This panel may not reject transfer without prior consultation with the Community Council.

b. Jurisdiction.[20] The Tribal Court has jurisdiction over matters concerning adoption of Minors who are Community Members or eligible for enrollment.

c. Designation of Parties.[21] Parties to adoption proceedings shall be designated as petitioner and respondent, if any.

d. Preference.[22] In contested adoption cases, if the best interests of the Child are not an issue between or among the parties, Community Members who are Relatives of the Child must be given adoption preference.

e. Petition for Adoption. The petition for adoption must be filed with the Tribal Court on a form developed by the Court and available upon request from the Court. It must be verified under oath by the adoptive Parent or Parents, and must contain the following:

1. The full name, the residence, date of birth, enrollment status, and sex of the Child. A certified birth certificate documenting the date and the place of the birth of the Child to be adopted must be filed with the petition.

2. The full name, the residence, date and place of birth, Tribal enrollment, and occupation of the adoptive Parent or Parents. If the adoptive Parent or Parents are married, they must state so on the petition and must file with the petition a certified Marriage license or other recognition of a solemnized Marriage documenting the adoptive Parents' marital status. If the adoptive Parent or Parents are unmarried, they must state so on the petition.

3. A full description and statement of the value of all property owned or possessed by the Child.

[20] Note of Amendment: The Community Council amended this subsection on August 6, 2025, by Resolution Number 25-8-6-153, to delete the word "original" before "jurisdiction" and clarify that the Court only exercises jurisdiction over adoption of Member and membership-eligible Minors.
[21] Note of Amendment: The Community Council amended this subsection on August 6, 2025, by Resolution Number 25-8-6-153, to remove this from a definition section.
[22] Note of Amendment: The Community Council amended this subsection on August 6, 2025, by Resolution Number 25-8-6-153, to remove this preference from the definition of "Relatives."

4. An agreement by the adopting Parents that it is their desire that the relationship of Parent and Child be established between them and the Child, and that this relationship is in the Child's best interests.
5. A fully witnessed and notarized natural Parent consent to the adoption on a form developed by the Court and available upon request from the Court or a Court order terminating the Parent-Child Relationship with respect to any living Parent who does not consent must be filed with the petition.

f. Who May File a Petition.

1. General Requirements.[23] Any Adult may file a petition in the Tribal Court to adopt a Child who is enrollable or who is a Community Member, regardless of where the Child is domiciled. If the petitioners are married persons maintaining a home together, the petition must be the joint petition of the spouses, except that if one of the spouses is the natural Parent of the Child to be adopted, the natural Parent is not required to join in the petition. The natural Parent spouse in a stepparent adoption must file a consent under Section 12(h)(1) (Form of Consent). The petitioner(s) must be at least 10 years older than the Child.
2. Special Conditions for Non-Member Adoption.
   A. An order of adoption granted to a petitioner who is not a Member of the Community must be expressly conditioned upon the petitioner making a commitment to the Court to make every effort to keep the Child apprised of their tribal heritage and a commitment to raise the Child insofar as possible to foster the Child's tribal heritage.
   B. The Court may order the appropriate agency/office to monitor the adoptive placement to ensure that the provisions of this subsection are being complied with.
   C. The Court may enter an interim custody order not to exceed six months to determine the non-member adoptive Parent's compliance with this subsection.
   D. At the expiration of six months from the entry of the interim order, the Court may enter its final adoption order and decree.

g. When Consent to Adoption is Required.

1. No petition for adoption may be granted unless:
   A. Each Parent of the Child, or if there is no living Parent, the guardian of the Child's person, consents in writing to the petitioners' adoption of the Child; or
   B. The Parent-Child Relationship has been terminated as to any non-consenting Parent.

[23] Note of Amendment: The Community Council amended this subsection on August 6, 2025, by Resolution Number 25-8-6-153, to refer to married petitioners as spouses, consistent with the remainder of this Ordinance.

2. A Minor Parent may consent to an adoption if the Parents of the Minor Parent concur. The Tribal Court may waive consent by the Minor's Parents if it finds that the withholding of such consent is arbitrary and capricious.

h. Appointment of a Guardian. Except in the case of stepparent adoptions, a petition for adoption by any person who is not a Relative within the second degree of kinship either by blood or affinity may not be heard unless a guardian for the Child has first been appointed by the Tribal Court.

i. Consents to Adoption.

1. Form of Consent. Consents to adoption must be acknowledged before an officer duly authorized to take acknowledgements and witnessed by a representative of the Tribal Court. The consent must indicate whether the Parent or guardian wishes for their identity to be confidential. The consent shall be in a form developed by the Tribal Court and available upon request from the Court.

2. Consent by a Child Aged 12 or Older. The adoption of a Child 12 years of age or older may not be granted without the Child's consent given in Court or in writing in such form as the Court may direct. If a Child is unable to give consent due to mental incapacity, this consent provision may be waived by the Tribal Court.

3. Filing of Consents. Written consents required by this subsection must be attached to the adoption petition. A consent by a guardian of the Child's person shall be accompanied by evidence satisfactory to the Tribal Court establishing the guardian's authority to consent to adoption of the Child, on a form developed by the Tribal Court and available upon request from the Court.

4. Withdrawal of Consent. A Parent may withdraw their consent to adoption for any reason within 10 working days after the consent is executed and acknowledged. Written notification of withdrawal of consent must be received by the agency, Tribal department, or individual to which the Child was given no later than the tenth working day after the consent is executed and acknowledged. On the day following the tenth working day after execution and acknowledgement, the consent is irrevocable, except upon order of a court of competent jurisdiction after written findings that consent was obtained by fraud. In proceedings to determine the existence of fraud, the adoptive Parents and the Child must be made parties. The proceedings must be conducted in a manner that preserves the confidentiality of the adoption process. No presumption in these proceedings favors the natural Parents over the adoptive Parents.

j. Investigation Report. Within five days after the filing of a petition for adoption, the Court must request the assistance of the Tribal agency, the Bureau of Indian Affairs Branch, an agent of the State, a private court services business, or a probation officer participating in the supervision of custody of the Child to inquire into, investigate, and report, in writing, to the Court within 30 days as to the suitability of the Child for adoption, the financial ability, moral and physical fitness, and general background of the adoptive home and of the adoptive Parent or Parents, and to make recommendations on the proposed adoption.

k. Hearing on Adoption.

1. Within five days after the written report required by Section 12(i) (Investigation Report) is filed, the Court must set a hearing on the petition for adoption that is not be sooner than 30 days nor later than 45 days from the date of the scheduling order. The adoptive Parent or Parents and adoptive Child must appear personally at the hearing. All other persons whose consent is necessary to the adoption must be duly notified, unless notice is waived, and may appear or be represented by a person having power of attorney authorizing such person to represent them for the purpose of the adoption.
2. The Court must separately examine all persons.
3. If the Court is satisfied as to the suitability of the Child for adoption, the validity of the consent to adoption, the financial ability and moral and physical fitness and responsibility of the adoptive Parents, and that the best interests of the Child will be promoted by the adoption, it may:
   A. Enter a final decree of adoption if the Child has been in the custody of the petitioners and provided for by them for more than three months; or
   B. Place the Child in the Legal Custody of the petitioners for a period of not less than six months prior to entering a final decree of adoption.
4. If the Court is satisfied that the adoption petition will not be in the best interests of the Child, it must deny the petition and instruct the guardian to arrange suitable care for the Child. The Court may request agencies authorized to provide such services to assist in the placement and the care of the Child.

l. Report and Final Decree of Adoption. Within six months after the Child has been in the custody of the petitioner, the Tribal Court must request a supplementary written report under the same procedures followed in Section 12(i) (Investigation Report) as to the welfare of the Child, and the current situation and conditions of the adoptive home and the adoptive Parents. If the Tribal Court is satisfied the interests of the Child are best served by the proposed adoption, a final decree of adoption may be entered. No final order may be entered by the Tribal Court until the Child to be adopted has lived and resided for a period of at least three months in the home of the adoptive Parents. If the Tribal Court finds that the best interests of the Child will not be served by the adoption, it must appoint a guardian of the Child to make suitable arrangements for the care of the Child, and may request an appropriate Tribal, federal, or state agency authorized to provide such services to assist in the placement and the care of the Child.

m. Privacy Interests. To protect the privacy interests of the natural Parent or guardian consenting to an adoption, the final order for adoption must clearly indicate whether that person's identity is confidential under the designation on the consent form provided by and filed with the Tribal Court. If the consenting person later changes their mind, they may move to the Court to amend that portion of the order by filing a motion with the Tribal Court.

n. Adoption Records. [24]

1. All records, reports, and proceedings in adoption cases are confidential and permanent records of the Tribal Court and shall not be available for release to or inspection by the public.
2. Orders in adoption cases may be published in the Tribal Court Case Database, but the following information must be redacted:
   A. Name and birthdate of all Minors;
   B. Names of all Adults not acting in their professional capacities (e.g. lawyer, banker, child protection worker); and
   C. Parallel court file numbers and other information (listed in the Case Database User Guide) that could reasonably identify the Child at issue in the order.
3. Information contained in confidential adoption records or redacted from orders in adoption cases may be released upon petition to the Tribal Court by the adopted person after reaching legal majority, or upon order of the Tribal Court upon good and sufficient cause shown, unless the person consenting to the adoption has requested otherwise as provided for in Section 12(l) (Privacy Interests).

o. Contents of Adoption Order.[25]

1. The final order and decree of adoption must include such facts as are necessary to establish that the Child is eligible and suitable for adoption, and that the adoptive home and Parents are adequate and capable for the proper care of the Child, as shown by the investigation reports and the findings of the Tribal Court upon the evidence adduced at the hearings, and that adoption is in the Child's best interests.
2. Within five days after the final order and decree of adoption has been entered by the Tribal Court, the Clerk of Court must notify the body charged with management of vital statistics in the State where the Child was born that the adoption has taken place. In providing such notification, the Clerk must include the full name, sex, birthday, names of natural Parents, and full names of adoptive Parents so that a new record of birth in the new name and with the name or names of the adopting Parents may be recorded. The Clerk must also provide a certified true and correct copy of the final order and decree of adoption.

p. Name and Legal Status of Adopted Child. Children adopted by order of the Tribal Court assume the surname chosen by the persons by whom they are adopted, unless the Court orders otherwise, are entitled to the same rights of person and property as natural Children or heirs of the persons adopting them, and are subject to the same obligations of natural Children of the adoptive Parent. The entry of an order and decree of adoption divests any Parent or alleged Parent who is not married to the

[24] Note of Amendment: The Community Council amended this subsection on August 6, 2025, by Resolution Number 25-8-6-153, to allow publication of certain redacted orders in the Tribal Court Case Database.
[25] Note of Amendment: The Community Council amended this subsection on August 6, 2025, by Resolution Number 25-8-6-153, to broaden the notice requirement to the relevant entity of every relevant state.

adoptive Parent or who has not joined in the petition for adoption of all legal rights and obligations with respect to the adopted Child, except for past-due Child support payments accrued under a court order.

q. Tribal Status of Child. Adoption of any Minor Child who is a Member of the Community does not affect the Child's status as a Community Member.

Section 13. Records. [reserved].

Section 14. Miscellaneous Provisions.[26]

a. Use of Language From Other Laws. Inclusion of language, definitions, procedure, or other statutory or administrative provisions of other Tribal jurisdictions, the State of Minnesota, or other state or federal entities in this Ordinance is not an adoption of that law by the Community and may not be deemed an action of the Community deferring to state or federal jurisdiction where such state or federal jurisdiction is concurrent or does not otherwise exist.

b. Severability.[27] If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of this Ordinance, or the application of the provision to other persons or circumstances is not affected.

[26] Note of Amendment: The Community Council deleted the "Interim Appointment of Judges" and "Repeal and Replacement" subsections in this Section 14 as unnecessary on August 6, 2025, by Resolution Number 25-8-6-153.
[27] Note of Amendment: The Community Council amended this subsection on August 6, 2025, by Resolution Number 25-8-6-153, to replace "[reserved]" with the Community's standard language regarding severability.