

ROSEBUD SIOUX TRIBE
ORDINANCE NO.86-10
Amended: Petition Resolution No. 2008-201

ELECTION CODE
ROSEBUD SIOUX TRIBE

Be it ordained by the Rosebud Sioux Tribal Council that a Rosebud Sioux Tribal Election Ordinance, or short title, "TRIBAL ELECTION CODE", is hereby enacted as follows:

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SECTION 100 - ELECTIONS

SECTION 101. PURPOSE AND DEFINITIONS

A. This ordinance sets forth the rules and procedures governing nomination and election to tribal and community office.

B. The following terms, whenever used in this Ordinance, are defined as:

1. Board – Rosebud Sioux Tribe Election Board
2. Candidate – Any enrolled member, ¼ degree blood, of the Rosebud Sioux Tribe running for tribal office.
3. Clerk – Community election judge appointed by the committee as election clerk.
4. Committee – Any of the Rosebud Sioux Tribe community committees
5. Community – A recognized community listed in Article III, Section 2, of the Rosebud Sioux Tribe’s Constitution.
6. Community Officers – A president and other officers of a recognized tribal community.
7. Constitution – Rosebud Sioux Tribe Constitution and By-Laws as amended.
8. Council – Rosebud Sioux Tribal Council, the governing body of the Tribe.
9. Judge – Community election judge.
10. Office – any elected office of the Rosebud Sioux Tribe or tribal community including Tribal President, Vice-President, Community Representative to the Council.
11. President – President of the Rosebud Sioux Tribe.
12. Representative – Duly elected or appointed representative from a district to the Council; also a Council man/woman.
13. Residency – Living in a particular community on the reservation with intent to make it a fixed or permanent home, being bodily present there for the required length of time in order to vote or be a candidate for office, and it being the only legal domicile of the resident, provided that students attending a post secondary institution and members of the military on active duty are considered as having legal residence in order to vote if they have a legal domicile on the reservation.

14. Reservation – Rosebud Sioux Indian Reservation whose boundaries are defined in the Constitution.
15. Secretary – Secretary of the Rosebud Sioux Tribe.
16. Sergeant-At-Arms – Sergeant-At-Arms appointed for each community by the Board to maintain order and handle the ballot box.
17. Treasurer – Treasurer of the Rosebud Sioux Tribe
18. Tribe – Rosebud Sioux Tribe of South Dakota
19. Vice-President – Vice-President of the Rosebud Sioux Tribe.
20. Week – Seven calendar days including weekends and holidays.
21. Public Notice – Public announcement on KINI, a legal newspaper of the Tribe, and/or posted in a prominent location in the community.
22. Major Crimes – A felony conviction under any jurisdiction; Federal, State, or Tribal. .

SECTION 102. TYPES OF ELECTION, DATES, AND TIME

A. Primary Election:

- Held every three years for President and Vice-President;
- Held every three years for Council Representatives;
- Held every two years for Secretary and Treasurer;

On the fourth Thursday in July and the two candidates for each office who receive the highest number of votes shall advance to a General Election, except that if the candidates tie for second place, they also shall advance to the General Election.

- Each recognized 20 Rosebud Reservation Communities shall have one Community Representative to the Tribal Council, and each Community Representative shall be elected at large by all qualified registered voters of the Rosebud Reservation.

B. General Election:

- Held every three years for President and Vice-President;
- Held every three years for Council Representative;

- (Article III, Section 2) – the term of community Representatives shall be staggered terms commencing with the next election. Elections for ten Community Representatives will be for the first three year term, the remaining ten Community Representative elections will be for an initial term of two years and then it will revert to a three year term at the next General Election. The Decision of which ten communities will hold the first three year terms will be made by the Rosebud Sioux Tribal Election Board.
- Held every two years for Secretary and Treasurer:
- On the fourth Thursday in August and the candidate for each office who receives the highest number of votes shall be elected. In case of a tie, there shall be a special election to break it.

C. Special Election – Held on a date set by the Council acting within 30 days of a vacancy and the candidates for such office who receives the highest number of votes shall be elected.

D. Recall Election – Held on a date set by the Council within 30 days after a petition of recall has resulted in a recall election so tribal voters may vote to retain the incumbent in office or not. If the incumbent does not receive a majority of votes in his/her favor, a special election shall be held to fill the vacancy.

E. Re-Election – Held as a result of a contest based on violations of this Ordinance or irregularities occurring during a specific election and held with the same candidates and procedures as the contested election during hours set by the Board. Any contest of election resulting in a re-election of a Council representative office shall be held at large.

F. Time of Election – The polls shall be opened on election day at 8:00 a.m. (Central Daylight Saving Time or the category of time in effect in a community on the day of election) and they shall close at 7:00 p.m. (CDST or otherwise as provided herein).

G. Conflict with a legal holiday – If Election Day is a legal holiday, the election shall be held on the first subsequent day which is not a legal holiday.

SECTION 103. VOTING PLACES

A. Each community shall have one voting place except Ideal, which shall have an option of two voting places approved by the Board and in that case, two sets of election judges, ballot boxes, two different community voting lists, etc., as set forth by the Board.

B. Each voting place shall be designated by the Board.

C. A voting place shall not be a private home.

SECTION 104. NOTICES OF ELECTION, RESULTS AND HEARING

- A. The type, date and time of election, the eligibility requirements of voters, a list of candidates and community voting places shall be made known by the Board in a public notice for two successive weeks before an election.
- B. The results of election shall be made known by the Board in a public notice.
- C. Hearings held in regard to elections shall be made known by the Board in a public notice at least one week before a hearing.
- D. Each election shall be made known by the Board in a public notice the second and third weeks of May and such notice shall contain: dates of the general and primary election, the offices up for election, the qualifications of candidates, the filing of nominations, registration of voters, the appointment of election committees and other relevant information.
- E. All public notices shall be posted prominently in the community, printed at least once in a legal newspaper of the Tribe and aired at least once over KINI.

SECTION 200 – FILING FOR OFFICE

SECTION 201. ELIGIBILITY FOR OFFICE

- A. Any enrolled tribal member shall be eligible to seek and hold office of **President, Vice President, Secretary, Treasurer and Tribal Council Representative** if such candidate has:
1. Reached his/her 25th/30th birthday on or before election day except that to seek office in the General Election, he/she must have reached this birthday on or before the Primary Election Day.
 2. ¼ degree Indian blood/Sicangu blood to be a candidate for President, Vice President, Council Representative, Secretary or Treasurer.
 3. not been found guilty by the Tribal Council of misconduct in tribal affairs, **or who has not been found guilty of any major crimes (felony) by any jurisdiction**, or who has not been found guilty in a court of law of felony offense involving violence and who can provide affidavit(s) that prove some history of leadership shall be qualified to seek and hold membership on the Tribal Council; who has not been found, by Rosebud Sioux Tribal Council of misconduct in tribal affairs, or who has not been found, but any tribal state, or federal court of law, or by the tribal ethics commission or the Rosebud Sioux Tribal Council to have performed any act containing an element of perjury, forgery, bribery, dishonesty or abuse of public office compromising the welfare of the Rosebud Sioux Tribe or

any of its members shall be qualified to seek and hold membership on the Rosebud Sioux Tribal Council.

4. Candidates for the position of President or Vice President of the Sicangu Lakota Oyate must be at least 45 years of age and meet all requirements for membership on the Tribal Council.
5. has established residency on the reservation for at least one year prior to the date of the Primary Election, if running for president or vice-president, except that to run in a special election, the residency must have been established at least one year prior to that election. A candidate for President, Vice-President, Secretary and Treasurer must have been living within the original boundaries of the Rosebud Sioux Indian Reservation for at least one year preceding the date of the Primary Election, and a candidate for Community Representative must have been living in the community of candidacy for at least one year next preceding the date of the Primary Election.
6. **the Electorate of the Rosebud Sioux Tribe shall determine the qualifications of its officers, council members and community officers.**
7. has been absent, by reason of tribal employment or tribal office, from the community of his/her candidacy and resides in Rosebud Community, but has otherwise established residency for office.

SECTION 202. FILING FOR OFFICE

- A. Any candidate may file for office by filing a nominating affidavit with the Secretary during regular working hours on any working day during the month of June immediately prior to a Primary Election.
- B. No nominating affidavit shall be accepted by the Secretary unless it is accompanied by:
 1. filing fee receipt signed by the Treasurer and;
 2. Bureau of Indian Affairs Census of Abstract signed by the appropriate or Tribal Certificate of Enrollment signed by the appropriate tribal official.
 3. Submission of several affidavits that show proof of some history of leadership.
- C. No person may be a candidate for more than one office during any election.
- D. A valid nominating affidavit properly filed and subsequently approved by the Board is necessary for a candidate's name to be placed on a ballot, but if a candidate is running unopposed, his/her name in a Notice of Election shall serve in lieu of being placed on a ballot, provided other requirements to be elected are in order.

E. The Secretary shall deliver a copy of each nominating affidavit and its accompanying documents to the Board the same day they are filed by the candidate.

F. In case of a special election, the deadline for filing a nominating affidavit shall be set by the Council to meet the requirement for the public notice in accordance with this ordinance.

G. The nominating affidavit

**ROSEBUD SOUX TRIBE
NOMINATING AFFIDAVIT**

Notice of Candidacy for Political Office

President, Vice President, Treasurer, Secretary and Tribal Council Representative

Date: _____, 2 _____

I, hereby give Notice of my candidacy for the office of _____
Rosebud Sioux Tribe.

1. Name: _____ aka: _____

2. P.O. Box No: _____ Street Address _____

City: _____ State: _____ Zip: _____

(All notices and services of papers will be made to this address)

Telephone: (Home) _____ (Work) _____ (Cell) _____

3. Date of Birth: _____ 4. Age: _____

5. DOB: _____ 6. Rosebud Sioux Enrollment No. _____

7. Social Security Number: _____

8. Community of present residence: _____

9. Continuous resident of Rosebud Reservation since: _____

10. I hereby certify that:

(a) I am an enrolled, ¼ degree, member of the Rosebud Sioux Tribe.

(b) I am Twenty-Five (25) Years of age or older for the office of Tribal
Council, Treasurer and Secretary.

I am Forty-Five (45) Years of age or older for the office of President and
Vice President.

- (c) I have been a resident of the Rosebud Reservation or a Community for at least one (1) year prior to the date of the Election.
- (d) I have never been convicted of any Felony by any Court.
- (e) I have never been convicted of an act containing an element of perjury, forgery, dishonesty, or abuse of public office.

11. In support of the statements set forth in this Notice, I attached to and made a part of this Notice of Candidacy, the following:

- (a) Certificate of Enrollment: A certificate from the Tribal Enrollment Clerk, or the BIA Superintendent showing the date of enrollment and certifying that I am an enrolled member of the Rosebud Sioux Tribe.
- (b) Filing Fee: I hereby attach to this affidavit notice, a copy of the receipt \$300.00 filing fee for Officers and \$150.00 for Community Representative/Tribal Council which I paid by cashier's check or money order to the Tribal Finance Office, Rosebud Sioux Tribe.

I, hereby consent to and authorize any Federal, State, or Tribal law enforcement agency or court to disclose to the Rosebud Sioux Tribal Election Board any and all documents, data and information necessary to verify paragraph 10, above, including the record of any felony conviction I may have.

I represent all facts stated herein to be true and I fully understand that I will be liable for criminal prosecution for perjury under Rosebud Sioux Tribal Law and Order Code, Title Five, Chapter 16, Section 1, by signing this affidavit knowing the contents to be untrue. It shall be grounds for my disqualification as a candidate for office, or, if elected, it shall constitute grounds for my removal from office.

Signature of Candidate

ATTEST:

On this _____ day of _____, _____, before me, the undersigned Secretary of the Rosebud Sioux Tribe, personally appeared the above signed affiant known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledge that he/she executed the same for the purpose therein contained. I witness whereof, I hereunto set my hand and official seal of the Rosebud Sioux Tribe

(SEAL)

Signature of RST Secretary

This form also may be attested to by a Notary public of the State of South Dakota

SECTION 203. FILING FEES

A. Filing fees shall be paid in cash, cashier's check or money order to the Treasurer in the amount of \$300 for Office of President, Vice President, Secretary, Treasurer and \$150.00 for Office of Community Representative/Tribal Council.

B. Filing fees are non-refundable and shall be budgeted for election and background check expenses.

SECTION 300 – VOTING REQUIREMENTS

SECTION 301. ELIGIBILITY TO VOTE

A. Any enrolled tribal member at least 18 years old, who has established residency on the Reservation for at least 30 days prior to the election and has registered to vote, shall have the right to vote.

SECTION 302. REGISTRATION OF VOTERS

A. Registration to vote shall consist of filing at least two weeks prior to an election, a completed notarized registration form issued by the Secretary and signed by the tribal member seeking to vote requesting that the voter be included on one of the recognized communities' voters list.

B. The registration form shall consist of the name of the voter, including maiden name and/or any other name known by, his/her community of residency, length of residency in that community stating the month, day and year of beginning residency that has continued to date, birth date, tribal enrollment number, signature, post office address and notarized by the Secretary or a Notary Public.

C. The community president, in collaboration with the other community officers, shall review the community voting list and when a voter on that list no longer meets the residency requirement of 30 days and has moved to another community on the reservation and this information is available to the community officers, they shall write this information on the voting list they submit to the Tribal Secretary's Office.

D. The community president shall file with the secretary, at least two weeks before an election, an updated community voting list from which the Secretary shall remove ineligible voters after consultation with the Tribal Enrollment Office and community officers.

E. When the Tribal Secretary's Office personnel, who are working on the voters lists, find the written information that a voter has moved to another community, the personnel shall contact that community's officers and give them this information regarding this particular voter and ask for the community officers' verification that this voter does meet the 30 day physical residency requirement before adding that voter's name to the voting list, this will help ensure tribal voters who do meet the residency requirement retain their privilege to vote.

F. After tribal enrollment and age are verified with the Tribal Enrollment Office or other sources, and after residency is checked with any community officer, the Secretary shall present a list of eligible tribal voters, grouped by community and in alphabetical order, from the names submitted individually and by the community, to the Board one week prior to election day.

G. The community's voters list as submitted by the Secretary shall contain a space opposite each name where a voter shall sign when he/she receives a ballot during an election. If the voter cannot write his/her name, a mark shall be signed before two witnesses and the name of the voter shall be written in by one of the election judges.

SECTION 303. VOTERS PROVISIONS

A. To cast a ballot, an eligible voter must be physically present at the voting place. A handicapped voter may come to the door of a voting place and cast a ballot with the help of two judges who shall not influence or attempt to influence the voter by word, action or expression.

B. An eligible voter may request a Lakota translation from a judge on what is on a ballot, provided that translation is done before the entire committee who shall insure that the translation is correct.

C. An eligible voter who is blind or disabled and cannot mark a ballot may be helped in marking a ballot by two judges who shall not influence or attempt to influence the voter by word, action or expression.

D. Write in votes shall not be counted.

E. Absentee votes shall not be allowed.

F. A ballot must be marked in the oval which the voter intended to mark.

G. All spoiled ballots must be counted for separately on a tally sheet.

SECTION 304. VOTING PROCEDURES

- A. Upon entering the voting place, a voter shall give his/her correct full name to the clerk who shall hand a ballot to the voter only if his/her name is on the community's voters list and he/she signs opposite his/her name on the list.
- B. The ballot shall be stamped on the blank side with the words, "OFFICIAL BALLOT, _____ Community", by one of the judges. After a ballot is marked by a voter, it shall be folded by the voter so that the official stamp appears on the outside.
- C. Upon receipt of a ballot, a voter shall go to the private voting booth or table and there mark his/her ballot in secret. Only one person shall occupy a voting booth or table at the same time, except as provided in Section 303.
- D. No ballot shall be deposited in the ballot box unless it has an official stamp appearing on the blank side.
- E. If a voter spoils a ballot, that voter may receive one (1) additional ballot *after* he/she has returned the spoiled ballot to the judges who shall stamp the outside of that ballot "SPOILED" and place it in an envelope which shall also be stamped "SPOILED", sealed and signed by two judges and this envelope shall not be opened under any circumstances to avoid confusion.
- F. A spoiled ballot shall not be counted in the election results.
- G. If a voter's name is not on the voters list, he/she should be advised to register to vote in accordance with Section 302, A and B. A voter, after so registering and being placed on a community's voters list, shall be allowed to vote.

SECTION 400 – ELECTION BOARD

SECTION 401. APPOINTMENT AND COMPENSATION

- A. In its January meeting in a Primary Election year, the Council shall appoint an Election Board consisting of five qualified voters who shall serve for two years and conduct tribal elections during that term.
- B. A Board member shall not be a candidate or intended candidate for office, a Council member, and an officer of the Tribe, a community officer or a spouse of any of the above.
- C. One Board member shall be designated by the Council to chair the Board.
- D. Board members shall receive \$50 per day and mileage for attendance at each meeting at which a quorum is present to carry out business in regard to tribal elections. Board members shall be compensated \$50 per day for carrying out dues of the Election Board such as posting notices, which does not require a quorum to be present. With the

exception of the Primary Election Day and the General Election Day, due to the number of hours they are required to be on duty, the Election Board members shall be compensated \$100 and mileage for each election.

SECTION 402. VACANCIES, OATH OF OFFICE AND BOND

A. If a vacancy on the Board occurs or if any Board member is unable to perform his/her duties, a majority of the remaining Board members shall fill the vacancy by appointment for the unexpired term

B. If less than three Board members remain in office; the Council shall fill any vacancies for the unexpired term.

C. Each Board member shall take and sign an oath of office, administered to each other, which shall be the same as that found in the Constitution.

SECTION 403. DUTIES OF ELECTION BOARD

A. The Board shall have general supervision over tribal and community elections.

B. The Board shall publish notices of election, results and hearings in accordance with Section 100.

C. The Board shall appoint a sergeant-at-arms from each community to keep order at its voting place and to transport the ballot box between the Board and its assigned community.

D. The Board shall request from the Council, an adequate budget and the help of the Secretary's staff members in order to carry out its duties.

E. The Board shall serve as a tribal canvassing board.

SECTION 404. CHALLENGING OF CANDIDATES

A. As soon as possible after the deadline for the filing of nominating affidavits, the Board shall list tentative candidates in a public place.

B. Upon receipt of a nominating affidavit, the Board shall test the eligibility of the candidate by reviewing and verifying the contents of the affidavit by whatever valid sources it deems appropriate. If the Board determines such candidate is not eligible for office, it shall challenge the candidate, notify him/her by certified mail, cite the reason for ineligibility, set a hearing date for him/her to be heard, and give public notice.

C. Any qualified voter has a right to challenge the eligibility of a candidate by filing with the Board a sworn statement setting forth the grounds for ineligibility, within one week after a list of tentative candidates is made public. Upon receipt of such a challenge, the

Board shall determine whether the grounds presented provide evidence to warrant a hearing be held before notifying the candidate and challenger by certified mail, enclose the sworn statement, set a hearing date for both to be heard, and give public notice.

D. In any hearing, the Board shall allow the challenger and the challenged candidate to be represented by legal counsel of their choice at their own expense, to produce evidence on their behalf, to subpoena and cross examine witnesses, and to object to any evidence introduced.

E. After a hearing is conducted with the Board's assigned attorney serving as hearing officer, the Board shall issue a written order containing the reason for upholding or dismissing a challenge of the eligibility of the candidate, and it shall send by certified mail, a copy to the candidate and the challenger.

F. The Board's decision on the eligibility of a candidate shall be final.

G. The Board shall hold all hearings in whatever time it takes in order to meet the Notice of Election, and it shall send by certified mail, a copy of such notice to all candidates.

H. The Board shall accept no challenge of a candidate's eligibility, other than its own, unless it is accompanied by a receipt of a \$50 fee paid in cash, cashier's check or money order paid to the Treasurer.

I. Challenge fees are non-refundable and budgeted for election expenses only.

SECTION 500 – ELECTION COMMITTEES

SECTION 501. APPOINTMENT AND COMPENSATION

A. In June during Primary Election year, each community shall appoint in a regular or special meeting, three community members who shall serve for two years as election judges on a community election committee along with a sergeant-at-arms appointed by the Board.

B. A judge shall not be a candidate or intended candidate for office, a Tribal Council member, an officer of the Tribe, an officer of the community, or a relative in the first degree, meaning spouse, parent, sibling, child or in-law in the first degree.

C. One judge shall be designated by the community to chair the committee.

D. Committee members shall receive \$100 per day and mileage on Election Day to carry out the duties of the committee, \$50 to attend an election workshop sponsored by the Board.

SECTION 502. VACANCIES, OATH OF OFFICE AND NOTICE TO THE BOARD

A. If a vacancy on the committee occurs or if any judge is not able to perform his/her duties, two of the remaining judges shall fill the vacancy by appointment for the unexpired term.

B. If the community fails to appoint a committee or less than two judges remain on the committee, the Board shall fill the vacancies.

C. Each judge shall take and sign an oath of office, administered to each other, which shall be the same as that found in the Constitution and this oath shall be deposited in the ballot box.

D. The names of judges shall be delivered or sent by certified mail to the Board by August 1st during a Primary year.

SECTION 503. DUTIES OF COMMITTEES

A. The judges shall appoint one of themselves to serve also as election clerk. They shall work and cooperate with the sergeant-at-arms, become familiar with election procedures and shall be responsible at community level for carrying out a fair election in accordance with this ordinance.

B. The committee shall provide sufficient private booths, or other private facilities, for the voter to mark their ballots in secrecy and privacy.

C. All committee members shall be present at their respective community voting place on election day one half hour before the polls open until all ballots are counted, properly recorded and certified, replaced in the ballot box and handed over to the sergeant-at-arms for delivery to the Board.

D. Upon receipt of the ballot box on the day of election, the committee shall unlock it, take out the ballots and other materials and relock it for the deposit of ballots cast and sign a receipt stating the number received for each office.

E. The committee shall not give out any ballots before 8:00 a.m or after 7:00 p.m. on Election Day. But if there are voters lined up at closing time, all of them shall be admitted to the voting place at that time.

F. The committee shall serve as a community canvassing committee.

SECTION 504. CHALLENGING OF VOTERS

A. Upon opening the polls, the committee shall allow anyone on the voters list to vote if there is no challenge of the voter's eligibility.

B. The committee or designated poll watcher shall challenge any person who is suspected of not being the person whose name is on the voters list and the judges shall ask him/her to produce evidence that he/she is the voter so named on the list.

C. The committee shall advise any apparently eligible voter whose name is not on the voter's list to register in accordance with Section 302. A and B before being allowed to vote.

D. The committee shall challenge any voter whose name is on the voters list if there is a substantial error in fact, and if such voter appears to be eligible to vote, advise him/her to submit a corrected registration form before being allowed to vote at the next election.

SECTION 600 – BALLOTS AND BALLOT BOXES

SECTION 601. PREPARATION OF BALLOTS

A. The Board shall provide for the printing of ballots and only the names of eligible candidates who have submitted valid nominating affidavits shall appear on the ballot in the same order in which they were recorded as being received by the Secretary. Unopposed candidate's names do not have to appear on the ballot if they have been named in the election notice.

B. Ballots shall be printed on good quality paper with candidates' names printed in English in black letters with ovals opposite the names for marking by the voter. The size of the paper shall be set by the Board.

C. Ballots shall be printed any time after the election notice in an amount set by the Board based upon past election, and the printer shall sign an affidavit as to the number printed for each community. This number shall be included in the public notice of election results.

D. A printer of ballots shall not be an employee of the Rosebud Sioux Tribe.

SECTION 602. USE OF BALLOT BOXES

A. Printed ballots shall be placed in each community ballot box and kept in security in the tribal office at Rosebud prior to the election.

B. Each ballot box shall also contain other election materials necessary for an election and prepared by the Board.

C. Before opening of polls, each ballot box shall be delivered by the sergeant-at-arms to each committee at the community voting place.

D. The ballot box shall not be removed from the community voting place until it is ready to be returned to the Board.

SECTION 603. POSSESSION OF KEYS

A. There shall be two keys to each ballot box, one to be retained by the Board and the other to be delivered to the election committee clerk.

B. After the community canvass of votes, the key in the clerk's possession shall be placed in an envelope and deposited in the ballot box.

SECTION 604. RETURN OF BALLOT BOXES

A. After the canvass at the community level is completed, the locked ballot box shall be returned to the Board the same evening by the sergeant-at-arms.

B. The ballot box shall contain the ballots cast wrapped separately, the unused ballots wrapped separately, sealed envelopes mentioned previously, voters list with signature of voters, a tally sheet accounting for all the ballots and other election materials.

C. The number of ballots wrapped separately and in the sealed envelopes shall be marked on the outside before being placed in the ballot box.

D. After the ballot box has been relocked, the slot on top shall be covered by a paper seal which shall be signed by the judges.

E. After the canvas of the Board, the locked ballot boxes shall be kept in security in the tribal office at Rosebud until such time as all candidates have been certified, any special election held, and time for appeals to expire, provided that if there is any litigation pending, the ballot boxes must not be removed from security nor ballots destroyed.

SECTION 700 – CANVASS OF ELECTION

SECTION 701. COUNTING OF BALLOTS

A. Upon closing the polls, the committee shall immediately canvass the votes, in the presence of the public, and continue without adjournment until completed, the results publicly declared and the count certified by the judges' signature.

B. Upon opening the ballot box, the judges shall remove the ballots, keep them unfolded and count them. All ballots are checked to see if they are obviously not those printed for the election and if they do not have the official stamp on the blank side, and all such ballots not printed for the election or not having the official stamp are marked

“ILLEGAL” then if the number of ballots cast is more than the number of voters signed to receive a ballot, the excess number shall be drawn unfolded from the remaining legal ballots and marked “EXCESS”.

C. “ILLEGAL” and “EXCESS” ballots shall be placed in an envelope marked “ILLEGAL/EXCESS BALLOTS”, sealed, and signed by at least two judges. Such illegal and excess ballots shall not be counted in the election results.

D. When counting the ballots, the judges shall inspect the face of each ballot to see if the boxes are properly marked or if the face of the ballot is marked in such a way that it could be identified as being cast by any voter. If such ballots are not properly marked or could be identified as being cast by any voter, they shall be challenged by any judge, placed in an envelope marked “CHALLENGED BALLOT”, sealed and signed by at least two judges.

E. Challenged ballots shall not be counted by the committee. If the number of ballots challenged could change the result of the election, the sealed envelope containing challenged ballots shall be opened by the Board during its canvass and a final decision made. All acceptable ballots shall be counted.

SECTION 702. TALLY SHEET

A. Upon completion of the count, a tally sheet showing the votes cast for each candidate shall be certified and signed by the committee.

B. The tally sheet shall have a separate accounting of all ballots which are delivered to the voting place, including the number of ballots cast, unused, spoiled, illegal, and excess and challenged.

SECTION 703. BOARD CANVASS

A. Upon receipt of a ballot box from the committee, the Board shall canvass the election results at the Council meeting room at Rosebud by opening the ballot box in public, reviewing the tally sheet for accuracy, posting voting results, locking and securing the ballot box.

B. If, after all the voting results have been posted, the Board determined that challenged ballots could make a difference in the election, then it shall reopen the ballot boxes in public, open the sealed envelopes, rule on any challenged ballots, adjust the posted election results by adding any acceptable ballots, lock and secure the ballot boxes.

C. Immediately upon completion of the canvass by the Board, it shall certify only the voting results for all candidates as finally posted except those in which there is a tie vote and the outcome of the election could be changed in a recount.

D. If there is such a tie as described above, a recount shall be set for the day following the election.

E. If a recount is necessary, no certification of election (a candidate involved in a tie vote) shall be made until the recount is completed and the contest of election deadline has passed and a hearing held, if necessary.

SECTION 704. RECOUNT

A. In a tie vote recount, the Board shall open the ballot box and canvass votes in the same way the committee canvassed them at the community level.

B. If the recount changes the election results; the new election results shall be posted and certified as above.

C. The Board shall accept no request for a recount of the voting results of any candidate/candidates other than its own recount required in a tie vote, unless such request is accompanied by a receipt of \$50 paid in cash, cashiers check or money order to the Tribal Treasurer.

SECTION 800 – CERTIFICATION OF ELECTION

SECTION 801. CERTIFICATION OF ELECTION

A. Voting results shall be made known to tribal members by the Board in a public notice dated the first Monday following an election and such notice shall include a deadline of 1:00 p.m. on Friday of the same week for any qualified voter to challenge the voting results for any candidate.

B. If there is not a contest of election of the winning candidates by 1:00 p.m. on Friday of the same week the voting results are made known by public notice, the Board shall at that time certify the election of the winning candidates, or in the case of a Primary Election, shall certify their advancement into the General Election, and deliver the original certification to the Secretary.

C. If a contest of election is decided by the Board in favor of the candidate being contested, it shall certify his/her election or advancement and deliver the original certification to the Secretary by 1 p.m. on the first working day after a contest hearing is held and a decision made.

D. The Secretary shall have until 5:00 p.m. the same day he/she receives such certification, to notify the candidates in person, by telephone or other means, and send them a copy of the certification by certified mail.

E. If a contest of election is decided by the Board in favor of the person filing the contest and if a new election is necessary, or if there is a tie vote that needs to be broken by another election, the Board shall request the Council to set a special election and also recommend to the Council how it shall be conducted.

SECTION 802. CONTEST OF ELECTION

A. Within the deadline noted in Section 801. A., any qualified voter has a right to challenge the election results for a particular candidate by filing with the Board a sworn statement setting forth the grounds for contest.

B. The Board shall accept no challenge of the voting results for any candidate, other than its own, unless it is accompanied by a receipt of \$50 paid in cash, cashier's check or money order to the Tribal Treasurer.

C. Upon receipt of a contest of election, the Board shall determine whether the grounds presented warrant a hearing before notifying the contested candidate and the contester by certified mail, enclose the sworn statement, along with a hearing date for both to be heard and give public notice.

D. In any such hearing, the Board shall allow the contested candidate and contester to be represented by legal counsel of their choice at their own expense, to produce evidence on their behalf, to subpoena and cross examine witnesses and to object to any evidence introduced.

E. After such hearing is conducted by the Board, with its assigned attorney serving as hearing officer, the Board shall issue a written order or memorandum along with the reasons for upholding or dismissing the contest of election and the Board shall send a copy of certified mail to the contested candidate and the contester.

F. Any decision by the Board on a contest of election shall be final.

SECTION 803. INCUMBENTS HOLD OFFICE

A. Incumbents shall remain in office until newly elected candidates are certified, notified and take an oath of office.

SECTION 804. DATE OF TAKING OFFICE

A. Newly elected candidates shall take office after they are issued a certification of election by the Board in compliance with the Constitution and By-Laws of the Rosebud Sioux Tribe.

B. The Secretary shall inform the newly certified officials in person, by telephone or other means in regard to the time for taking office.

C. Taking office shall be demonstrated by taking an oath of office as prescribed in the Constitution.

SECTION 900 – OTHER ELECTION PROVISIONS

SECTION 901. NON-USE OF ALCOHOL AND DRUGS

A. All use of alcohol and drugs shall be banned during a forty-eight (48) hour period starting at 6:00 p.m. two (2) days before the Primary and General Election days, or any other tribal election, and ending at 7:00 p.m. on the day of the election.

B. The Board shall give the Bureau of Indian Affairs a standing request to cooperate fully in the enforcement of this ban.

C. Any candidate for tribal office who uses alcohol or drugs to buy, blackmail or otherwise coerce voters during an election period shall be automatically barred by the Tribal Council from running for or holding any tribal office or community office provided due process is followed.

D. It shall be the duty of the Board to submit to the Council any violations of this section providing it is brought to the Board's attention and proven by substantial evidence during the course of an election hearing.

E. Any non-candidate who violates this section shall be subject to arrest and appearance in Tribal Court according to the procedures of the Tribal Law and Order Code, and upon conviction shall be subject to a fine of \$350 and jail term of 90 days.

SECTION 902. POLL WATCHERS

A. Each candidate shall be entitled to one poll watcher who may watch the election, the counting and tallying of ballots, and may challenge either a voter's identity against the name on the voters list or a ballot being counted.

B. Any challenges against a voter by a watcher shall be ruled upon immediately by the judges.

C. No watcher shall be compensated by the Tribe.

D. Such watcher shall submit a signed statement to the committee that designates him/her as a watcher by the candidate.

E. A watcher shall not influence or attempt to influence any voter or community election judge by word, action or expression and any such violation shall be cause for removal from the voting place by the sergeant-at-arms when so directed by the judges.

F. A watcher shall not be a candidate or intended candidate for office, a Tribal Council member, and an officer of the Tribe, an officer of the community or a relative in the first degree.

G. A poll watcher shall be an enrolled member of the Rosebud Sioux Tribe.

SECTION 903. BAN ON ELECTIONEERING

A. There shall not be electioneering or campaigning within 100 feet of any voting place on Election Day.

B. There shall be no loitering in the voting place during voting hours by anyone other than the judges, the sergeant-at-arms, and poll watchers who have submitted their written statement designating them as poll watchers to the judge.

C. The sergeant-at-arms shall enforce the ban on electioneering, campaigning and loitering as described above including filing an appropriate complaint in Tribal Court when so directed by the judges.

D. During the canvass of votes, the public shall not interfere with the work of the judges, and any persons so interfering will be removed by the sergeant-at-arms when so directed by the judges.

E. Electioneering shall mean any interference or attempted interference with the election, and any influence or attempt to influence the voter or community election judges by word, action or expression.

F. Campaigning shall pertain to a candidate for office or his/her supporter influencing or attempting to influence the voter or community election judges by word, action or expression.

G. Loitering shall mean staying in the polling place longer than necessary to cast a ballot.

H. No candidate may go from poll to poll to monitor the election process during the hours they are open.

SECTION 904. PENALTIES OF VIOLATION OF CODE

A. Any person found guilty for crimes under the Rosebud Sioux Tribe Law and Order Code, Title Five, Chapter 16 - Perjury and Related Crimes; Chapter 26 – Forgery and

Related Crimes; Chapter 30 – Bribery and Abuse of Public Office, in regard to this Ordinance or for a blatant and deliberate disregard of this Ordinance is subject to the penalties as follows:

1. If a candidate for office, disqualification by the Election Board from seeking or holding office.
2. If a Board member or election committee member, removal from office by the Tribal Council.
3. If a voter, subject to Tribal Court action for whatever relevant crimes in the Rosebud Sioux Law and Order Code.

B. Any qualified voter may bring a charge to the appropriate body for violation of this ordinance.

C. Regardless of any penalty assessed for violation of this ordinance, the accused shall have all rights of due process afforded under the Tribal Constitution and By-Laws.

SECTION 905. RECISSION OF PREVIOUS RULES

A. All previous rules, resolutions and ordinances regarding tribal elections are hereby rescinded.

B. Any amendments to this ordinance shall be made in accordance with Ordinance 86-08, Legislative Procedure of the Governing Body of the Rosebud Sioux Tribe.

C. This ordinance shall be interpreted to accomplish a fair election and technicalities shall not be used to interfere, delay or block an election or to cause confusion or the loss of confidence in the election system.

D. Substantial complaints shall satisfy this ordinance.

E. Any candidate or voter with evidence that his/her due process rights have been violated may petition the Tribal Court, for such purposes only, under provisions of the Rosebud Sioux Tribal Law and Order Code, Title Four, Chapter 2 – Limitations for Actions and Sovereign Immunity.

CERTIFICATION

