

**ROSEBUD SIOUX TRIBE
ORDINANCE NO. 86-10**

Amended by Petition Resolution April 19, 2018

**ELECTION CODE
ROSEBUD SIOUX TRIBE**

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

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- 101. Purpose and Definition
- 102. Types of Election, Dates and Time
- 103. Voting Places
- 104. Notice of Election, Results and Hearings

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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 of the Rosebud Sioux Tribe running for tribal or community 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 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, tribal vice president, community representative to the council.
 - 11) Perjury – Any person who, having taken oath that he will testify, declare, depose, or certify truly before any competent tribunal, officer, or person, in any of the cases in which such an oath may by law be administered, intentionally and contrary to such oath, states any material matter he knows to be false, is guilty of perjury
 - 12) President - President of the Rosebud Sioux Tribe
 - 13) Representative - Duly elected or appointed representative from a district to the council; also a councilman/woman
 - 14) Residency - Living in a particular community on the reservation with intent to make it a fixed and 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.
 - 15) Reservation - Rosebud Sioux Indian Reservation whose boundaries are defined in the constitution
 - 16) Secretary - Secretary of the Rosebud Sioux Tribe
 - 17) Sergeant-at-Arms - Sergeant-at-Arms appointed by each community to maintain order and handle the ballot box

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- 18) Treasurer - Treasurer of the Rosebud Sioux Tribe
- 19) Tribe - Rosebud Sioux Tribe of South Dakota
- 20) Vice President - Vice President of the Rosebud Sioux Tribe
- 21) Week - Seven calendar days including weekends and holidays
- 22) Public Notice – Public announcement on KINI, KOYA, any newspaper circulated in the area of the Tribe, and/or posted in a prominent location in the community.

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 representative;
- 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.

B. General Election:

- Held every three years for president and vice-present;
- Held every three years for council representative;

Article III, Section 2 – the terms 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 and two-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, the General Election will be held; 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 RST Election Board and approved by the Tribal Council within 30 days of a vacancy and the candidate for such office who receives the highest number of votes shall be elected.
- D. Recall Election - Held on a date set by the RST Election Board and approved by the Tribal 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 held with the same candidates and procedures as the special election during hours set by the board. Any contest of election resulting in a re-election of a council representative or Rosebud Sioux Tribe Administrative Officer shall be held at-large.

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- F. Time of Election - The polls shall be opened on election day at 8 a.m. (Central Daylight Savings Time or the category of time in effect in a community on the day of election) and they shall close at 7 p.m. (CDST or otherwise as provided herein).
- G. Conflict With 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.
- H. Withdrawal of Candidacy – A candidate wishing to withdraw from any election, must submit to the RST Election Board, in writing two weeks prior to election. If a candidate withdraws from the General Election, the next highest vote getter will move onto General Election.

Section 103. Voting Places

- A. Each community shall have at least one voting place and the RST Election Board can, in its descetion, provide for other voting places. Each voting place shall have its own election judges, ballot boxes, and voters lists.
- B. Each voting place shall be designated by the RST Election Board.
- C. A voting place shall not be a private home.

Section 104. Notice of Election, Results and Hearings

- A. The type, date, time of election, polling location, the eligibility requirements of voters, and a list of candidates, shall be made known by the board in a public notice for two successive weeks prior to an election.
- B. The results of an election shall be made known by the RST Election board in a public notice.
- C. A hearing held in regard to elections shall be made known by the RST Election board in a public notice at least one week prior to a scheduled hearing.
- D. Each tribal election shall be made known by the RST Election board in a public notice the second and third weeks of April and such notice shall contain: dates of the general and primary elections, the offices up for election, the qualifications of candidates, the filing period of affidavits, registration of voters, the appointment of election committees and other relevant information.
- E. All public notices shall be posted for two (2) weeks in a prominent location in the community, printed in any newspaper circulated in the area of the tribe, and aired a on KWYR, KINI and/or KOYA radio.

SECTION 200 - FILING FOR OFFICE

Section 201. Eligibility for Office

- A. Any enrolled member shall be eligible to seek and hold the office of President, Vice-President, Secretary, Treasurer, and Tribal Council Representative, if such candidate meets the following requirements:
 - 1. Reached by the date of the general election his/her 25th birthday, if seeking the office of tribal council representative, tribal secretary, or tribal treasurer, or 45th birthday, if seeking the office of tribal president or vice-president.
 - 2. Have at least one-fourth or more Sicangu blood, be an enrolled member of the Rosebud Sioux Tribe, and not have been found guilty by the Rosebud Sioux Tribal Council of misconduct in tribal affairs.

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3. Those candidates for tribal council being 25 to 29 years of age on the date of the general election, must not have been found guilty of any major crimes by any jurisdiction and not have been found, by any tribal, state, or federal court of law, the tribal ethics commission, or by the Rosebud Sioux tribal court, 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 and meet the other requirements as set forth in this section.
4. Those candidates for tribal council being 30 years or older on the date of the general election must not have been found guilty in a court of law of a felony offense involving violence, must provide one or more affidavits that prove some degree of leadership, and meet the other requirements as set forth in this section.
5. A candidate for tribal council must have been living in the community of candidacy for at least one year preceding the date of the primary election.
6. Candidates for the position of president or vice president of the Sicangu Lakota Oyate (Rosebud Sioux Tribe) must be at least 45 years of age on the date of the general election and meet all requirements for membership on the tribal council.
7. A candidate for president, vice-president, secretary, and treasurer must have been living within the original boundaries of the Rosebud Indian Reservation for at least one year preceding the date of the primary election.
8. The electorate of the Rosebud Sioux Tribal Council shall determine the qualifications of its officers, council members, and community officers.

Section 202. Filing for Office

- A. Any candidate may file for office by filing a nominating affidavit with the RST Election Board during regular working hours on any working day during the month of May immediately prior to a primary election.
- B. No nominating affidavit shall be accepted by the RST Election Board unless it is accompanied by: (1) filing fee receipt signed by the RST Finance Department, and (2) Tribal Certificate of Enrollment signed by the appropriate tribal official.
- 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 the notice of election shall serve in lieu of being placed on a ballot, provided other requirements to be elected are in order.
- E. In case of a special election, the deadline for filing a nominating affidavit shall be set by the RST Election Board and approved by the Tribal council to meet the requirements for the public notice in accordance with this ordinance.
- F. The nominating affidavit form shall be as follows:

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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: _____ A.K.A. _____

2. POB: _____ PHYSICAL ADDRESS: _____

3. CITY: _____ STATE: _____ ZIP CODE: _____

4. TELEPHONE: (home) _____ (work) _____ (cell) _____

5. DATE OF BIRTH: _____ AGE: _____

6. PLACE OF BIRTH: _____ RST ENROLLMENT NUMBER: _____

7. COMMUNITY OF PRESENT RESIDENCE: _____

8. CONTINUOUS RESIDENT OF THE ROSEBUD RESERVATION SINCE: _____

9. I hereby certify that:

- a) I am an enrolled member of the Rosebud Sioux Tribe.
- b) I am twenty-five (25) years of age or older (for the office of council, treasurer, secretary).
- c) I am forty-five (45) years of age or older (for the office of president, vice-president).
- d) I have been a resident of the Rosebud Reservation or my community for at least one year prior to the date of election.
- e) I have never been convicted of a felony as stated in Section 201, (2), (3), (4) of the RST Election Ordinance 86-10.
- f) I have never been convicted of an act containing an element of perjury, forgery, dishonesty, or abuse of public office.

10. 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 enrolled member of the Rosebud Sioux Tribe.
- b) Filing Fee – I hereby attach to this affidavit notice, a copy of the receipt for \$300.00 filing fee for officers and \$150.00 for the community representative/tribal council which I paid by cashier's check or money order to the tribal finance office, Rosebud Sioux Tribe.

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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 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 any of 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.

Signature of Candidate

ATTEST:

On this _____ day of _____, _____, before me, the undersigned RST Election Board Representative, 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. In witness whereof, I hereunto set my hand and official Notary Public Seal.

(SEAL)

RST Election Board Representative
My Commission expires: _____

Section 203. Filing Fees

- A. Filing fees shall be paid by money order payable to the RST Finance Department in the amount of \$300 for Office of President, or Vice President, Treasurer, Secretary and \$150 for the Office of Tribal Council Representative.
- B. Filing fees are non-refundable and shall be budgeted for election expenses.
- C. Incomplete affidavits will not be accepted.

Section 204. Vacancies

If the Office of President becomes vacant before the expiration of the term and one year or more of the term remains, the Tribal Council, within thirty (30) days after the vacancy, shall order a special election. If less than one year of the term remains, the Vice President shall fill the unexpired term; provided, that the tenure of office of any person elected to fill the vacancy shall not extend beyond the term of office of the original incumbent. If the Office of Vice President becomes vacant by reason of succession, or any other cause and one year or more remains in the term, the Tribal Council, within (30) days after the vacancy, shall order a special election. If less than one year of the term remains, the Tribal Council shall elect a Vice President from its own number to fill the vacancy until the next general election; provided, that the tenure of office of any person elected to fill the vacancy shall not extend beyond the term of office of the original incumbent.

If the Office of any Community Representative becomes vacant before the expiration of the term and on year or more of the term remains, the Tribal Council, within thirty (30) days after the

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vacancy, shall order a special election to allow all registered voters to vote for the vacant position. If less than one year of the term remains, the community council of the affected community, within thirty (30) days from the date of the vacancy shall appoint a Community Representative for the unexpired term; provided, that the tenure of office of any person elected to fill the vacancy shall not extend beyond the term of office of the original incumbent.

If the Office of Secretary becomes vacant before the expiration of the term and one year or more remains in the unexpired term, the Tribal Council shall order a special election to fill the vacancy. If less than one year remains in the term, the Tribal Council shall advertise and fill the term from those qualified tribal applicants. The tenure of office of any person elected to fill this vacancy shall not extend beyond the term of office of the original incumbent.

If the Office of Treasurer becomes vacant before the expiration of the term of six months or more remain in the unexpired term, the Tribal Council shall order a special election to fill the vacancy. If less than one year remains in the term, the Tribal Council shall advertise the vacancy and fill the term from those qualified tribal applicants. The tenure of office of any person elected to fill this vacancy shall not extend beyond the term of office of the original.

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

- A. Registration to vote shall consist of filing at least two weeks prior to an election, a completed, notarized registration form issued by the RST Election Board and signed by the tribal member seeking to vote requesting that the voter be included on one of the recognized community's voter lists.
- 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 notarization by the RST Election Board 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 voters list they submit to the RST Election Board office.
- D. The community president shall file with the RST Election Board Office, at least two weeks before an election, an updated community voting list, from which the RST Election Board Office shall remove ineligible voters after consultation with the tribal enrollment office and community officers.
- E. When the RST Election Board Office find the written information that a voter has moved to another community, the RST Election Board Office 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.

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- 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 RST Election Board Office shall present a list of eligible tribal voters, grouped by community and in alphabetic order, from the names submitted individually and by the community, to the board one week prior to election day.
- G. The community's voters 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 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 the 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 accounted 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 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 circumstance 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.

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SECTION 400 - ELECTION BOARD

Section 401. Appointment and Compensation

- A. In its January meeting in a primary election year, the Tribal council shall appoint an election board consisting of five qualified voters who shall serve for two years and conduct tribal and community elections during that term and implement tribal election laws.
- B. A board member shall not be a candidate or intended candidate for office, a council member, 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 regards to tribal elections. Board members shall be compensated \$50 per day for carrying out duties of the election board which does not require a quorum to be present. With the exception of the primary election day and 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 terms.
- 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 Office

- 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 RST Election board shall request from the Tribal council, an adequate annual budget in order to carry out its duties.
- D. The RST Election Board shall hire, supervise and terminate all RST Election Board Office staff, if any, pursuant to the RST Employee Policy and Procedure manual.
- E. The RST Election 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 notice.
- 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

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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. If the Board does not find grounds for a hearing, the Board shall dismiss the challenge with written notice by certified mail to the challenger stating reason(s) why the challenge is dismissed.
- 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 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 within the time 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 by money order to the RST Finance Department.
- I. Challenge fees are non-refundable and budgeted for election expenses only.

SECTION 500 - ELECTION COMMITTEES

Section 501. Appointment and Compensation

- A. By May, in a primary election year, each community shall appoint in a regular or special meeting, (4) four community members who shall serve for two years as election judges on a community election committee with a chair/head judge, 2 clerks and one sergeant-at-arms.
- B. The Community shall appoint (1) one 4-member Community Election Committee to implement Tribal election law and processes of Tribal and Community Elections.
- C. 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.
- D. One judge shall be designated by the community to chair the committee. The committee shall appoint (2) two clerks and (1) one sergeant at arms to carry out the duties of the Community Election Committee.
- E. Community Election Judges must have knowledge in RST Election Code and applicable tribal election laws.
- F. Community Election Judges must be able to enforce RST Election Code during election.
- G. Committee members shall receive \$100 per Tribal election day and mileage on Tribal election day to carry out the duties of the committee, \$50 to attend an election workshop sponsored by the RST Election board.

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Section 502. Vacancies, Oath of Office and Notice to Board

- A. If a vacancy on the Community Election committee occurs or if any judge is not able to perform his/her duties, the remaining judges shall fill the vacancy by appointment for the unexpired term.
- B. 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.
- C. The names of Community Election judges shall be delivered or sent by certified mail to the RST Election board Office by June 1st during a primary election year.

Section 503. Duties of Committees

- A. The judges shall appoint one of themselves to serve as (2) two election clerks and (1) one Sergeant-At-Arms. 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 of ballots received for each office.
- E. The committee shall not give out any ballots before 8 A.M. or after 7 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 voter's list to vote if there is no challenge of the voter's eligibility.
- B. The committee or designated poll watchers shall challenge any person who is suspected of not being the person whose name is on the voter's 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 voter's 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

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

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received by the RST Election Board. Unopposed candidates' names do not have to appear on the ballot if they have been named in the election notice.

- B. Ballots should 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 anytime after the election notice in an amount set by the board based upon past elections, 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 be at the descretion of the RST Election Board .

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 election.
- B. Each ballot box shall contain other election materials necessary for an election and prepared by the board.
- C. Before the 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 locked 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 canvass by 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 elections 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 the ballots destroyed.

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Section 605. Automated Digital Scanning Voting Machines

- A. Per each tribal election, if the tribal council authorizes the use of optical scan voting equipment, the company providing the services shall also provide all necessary equipment including but not limited to: voting booths, the optical scan voting ballots and tabulators, training, and onsite technical support during the primary and general elections. All fees, costs, and contract services will be negotiated and approved by the tribal council prior to the primary and general elections.

Section 605.1 Duties of Community Election Judges

- A. The communities' sergeant-at-arms or designated community judges shall pick up the optical scan ballot tabulators and all other necessary voting materials the day before the election from the Rosebud Sioux tribal building and deliver them to the designated community polling places.
- B. All community election officers shall receive training on the use of the optical scan voting equipment by the company providing the service prior to the election day. Once the optical scan machines are at the polling locations, the community judges will trouble shoot any problems and call the company providing the service for assistance if needed.

Section 605.2 Procedure at the Polls

- A. Each polling location will be issued one (1) tabulator and its companion ballot box. Voting booths as well as all consumable supplies necessary for the conduct of the voting process will also be provided by the company providing the service.
- B. When an optical scan ballot is used, the optical scan ballot tabulator will also be used which recognizes a certain type of mark which will be indicated on the ballot. The optical scan ballot shall contain instructions on how to properly utilize the ballot.
- C. The optical scan ballot tabulator will automatically eject a ballot that contains errors. Once the error is corrected, the voter can revote without the ballot becoming spoiled.
- D. The community judge shall give the optical scan ballot to the voter and will provide information on how the system works.
- E. The voter shall be provided a special pen to be used for voting. The optical scan ballot tabulator will recognize the marks on the ballot and automatically tabulate the voters vote.
- F. Upon receipt of the optical scan ballot, the voter shall vote pursuant to instructions on the ballot.
- G. The voter shall then place the optical scan ballot in the optical scan ballot tabulator which will automatically tabulate the results.

Section 605.3. Canvassing and Delivery of Optical Scan Ballots

- A. When the polls close the optical scan tabulator will give the official count of the ballots, no unofficial count will be necessary.
- B. The sergeant-at-arms will immediately deliver the optical scan voting equipment as required to the RST Council chambers.
- C. With optical scan voting equipment, an official recount is not necessary. However, a recount may be ordered by the election board as a result of a contest of election.

SECTION 700 - CANVASS OF ELECTION

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Section 701. Counting of Ballots

- A. Upon closing of 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' signatures.
- 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 or 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
- C. Number of voters signed to receive a ballot, the excess number shall be drawn unfolded from the remaining legal ballots and marked "EXCESS".
- D. "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.
- E. 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
- F. 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 BALLOTS", sealed, and signed by at least two judges.
- G. 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, 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 determines 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 vote as described above, a recount shall be set for the day following the election.

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- 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. In case of a tie, there shall be a special election to break tie and determine winning candidate.
- D. 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 by money order to the RST Finance Department.

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 P.M. on Friday of the same week, for any qualified voter to challenge the voting results for any candidate.
- B. If there is no contest of election of the winning candidates by 1 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.
- 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, on the first working day after a contest hearing is held and a decision made.
- D. The RST Election Board shall have until 5 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 by money order to the RST Finance Department.
- 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 the 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.

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- 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 by certified mail to the contested candidate and the contester.
- F. Any decision by the RST Election 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 of Tribal and Community elections 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 RST Election Board Office 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 sale of alcohol by establishments with a RST Liquor License shall be banned during a twenty-four (24) hour period starting at 6:00 P.M. (1) one day 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 and Tribal Law Enforcement 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 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.

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 voter's 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.

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- 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, 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, Campaigning and Loitering

- A. There shall be no 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 judges.
- 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 supporters 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 for Violation of Ordinance

- 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 may be 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 Tribe 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. Rescission of Previous Rules

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

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- 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 nor to cause confusion or the loss of confidence in the election system.
- D. Substantial compliance 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 Law and Order Code, Title Four, Chapter 2 - Limitations of Actions and Sovereign Immunity.
- F. The RST Election Board is hereby authorized to promulgate rules consistent with implementing this ordinance.

SECTION 1000 – COMMUNITY ELECTIONS

Community Election Procedures

Each Community established under the RST Constitution shall elect annually, a president and such other officers as may be advisable. The president shall call and preside over popular meeting of the community whenever necessary for the consideration of matters of local interest. The various communities may consult with representatives of the Interior Department on all matters of local interest and make recommendations thereon to the Tribal Council or the Superintendent or Commissioner of Indian Affairs, may undertake and manage local enterprises for the benefit of the community, may levy assessments upon members of the community, may expend monies in the community treasury for the benefit of the community, may keep a roll of those members of the Tribe affiliated with the community, and may exercise such further powers as may be delegated to the communities by the Tribal Council. The actions of the community councils shall not be inconsistent with the Constitution, By-Laws and ordinances of the Tribe. (RST Constitution, Article V. Community Organization)

1001. Community Election Committee/Judges

Community Election Committee Chairman: Oversees community election process, calls for community election committee meetings when deemed necessary. Picks up affidavits for community members filing for Community Officers at the RST Election Board Office

(2) Election Clerks: Issue ballots after confirming voter identification. Explain marking of ballot and proper way to fold and deposit ballot, stamps issued ballot. Makes sure voter signs voter registration form. Maintains the ballot box key.

Sgt-At-Arms: Maintains order at election site, makes sure election site is clear of electioneering/campaigning within 100 feet of election site, transport the ballot box between the RST Election Board Office and the assigned community.

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Special circumstances: To cast a ballot, an eligible voter must be physically present at the voting place. A Handicapped voter may come to the 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.

1002. Eligibility of Voters

Any enrolled member of Rosebud Sioux Tribe, at least eighteen (18) years of age, who has established residency in the Community for at least thirty (30) days and has registered to vote prior to election day. Tribal Members may file a Voters Registration form with the RST Election Board Office two weeks prior to election in order to be on the Voters List for that election.

1003. Eligibility of Community Officers

Applicants for community officers must:

- A. Be an enrolled member of the Rosebud Sioux Tribe.
- B. Be at least eighteen (18) years of age by date of filing for community election.
- C. Be a registered voter and living within the boundaries of the community for at least one (1) year with written proof of physical residency.

An existing officer seeking re-election may not have any decisions in matters pertaining to the community election process. The Community Election Committee shall have supervision of Community elections, under the direction of the RST Election Board.

1004. Filing for Office: Any eligible candidate may file for Community President by filing a nominating affidavit with the RST Election Board Office or Community Election Committee Chairperson during regular working hours on any working day during the month of July immediately prior to annual community election. The Community Election Chairperson will submit all completed affidavits to the RST Election Board office on the first working day in August.

1005. Community Elections

- A. All Community Presidents elections shall be held annually in conjunction with the RST General Election. In the year that there is no General Election, the RST Election Board shall designate the third Thursday of August as Community Chairman Election.
- B. All voting for Community President shall be done by ballot on the same day and time as RST General Election, with polls open at 8:00am and closing at 7:00pm.
- C. The RST Election Board shall provide ballots, tally sheets and other pertinent forms to be used for community presidents elections.
- D. The highest vote getter in Community Presidents election shall be elected as community President.
- E. A Run-off Election will be held within two weeks of Election, only in case of a tie.
- F. The positions of Vice-President, Secretary, Treasurer, Sergeant-At-Arms and other committees shall be elected at large from within the Community at the next scheduled community meeting.
- G. Challenges periods, Notice of Election, will be held within the time to meet the RST General Election timelines.
- H. The RST Election Board will certify the Community Presidents Elections.
- I. The term limit for Community Chairperson is three (3) consecutive terms.
- J. Any community chairman election challenges shall be pursuant to challenge procedures set forth in Section 404, Section 504, and Section 802 of this Ordinance.

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ORDINANCE NO. 86-10**

Amended by Petition Resolution April 19, 2018

ESTABLISHING RESOLUTION

Resolution No. 86-144

AMENDING RESOLUTIONS

Resolution No. 88-122
Resolution No. 89-94
Resolution No. 89-145
Resolution No. 90-85
Resolution No. 91-236
Resolution No. 93-45
Resolution No. 97-203
Resolution No.2002-233
Resolution No.2003-183
Resolution No.2003-184
Resolution No.2003-185
Resolution No.2003-232
Resolution No.2003-233
Resolution No.2003-234
Resolution No.2003-235
Resolution No.2008-201
Resolution No. 2011-63
Resolution No. 2011-158
Resolution No. 2015-110
Resolution No. 2018-115