

LOWER BRULE SIOUX TRIBE
ELECTION ORDINANCE

CHAPTER 1. DEFINITIONS:

Section 1-1. This law may be cited as the Lower Brule Sioux Tribal Election Ordinance or the Lower Brule Sioux Tribe Election Ordinance.

Section 1-2. The following are definitions used throughout this ordinance (in this ordinance, masculine and singular terms include feminine and neuter and plural, and vice versa, unless the context clearly indicates otherwise):

1-2-1. "Board" means the Tribal Election Board.

1-2-2. "Committee" means the Election committee, that may or may not consist of members of the Lower Brule Sioux Tribe, who are appointed by the Election Board, unless the context clearly indicates otherwise (for example, "shall either appoint a committee or shall order the Election committee"). The Election committee is in charge of the polling place. The Election committee shall consist of a superintendent, two (2) judges and two (2) clerks.

1-2-3. "Council" means the Lower Brule Sioux Tribal Council.

1-2-4. "Days" mean calendar days.

1-2-5. "Designee" or "designated representative" means a specified representative or agent.

1-2-6. "Dishonesty with money" means any conviction (without pardon) by any court of a felony or misdemeanor involving dishonesty with money.

1-2-7. "District" means the Lower Brule Sioux Reservation, which shall constitute one voting district.

1-2-8. "Election" means the Primary Election and General Election and any other election called by the Lower Brule Sioux Tribal Council.

1-2-9. "Electioneering" means maintaining an office or communications center or public address system or displaying campaign posters, signs or other campaign materials or in any manner soliciting votes for or against any person or a position on a question submitted to the voters.

1-2-10. "Immediate relative" means father, mother, spouse, brother, sister or child (by birth, marriage or adoption).

1-2-11. "Legal residence" means a person maintaining a home at a certain place and leaving only temporarily for purposes of employment, schooling or other such reasons, and to which home he or she has the intention of returning, whenever absent from the home.

1-2-12. "Member" means an enrolled member of the Lower Brule Sioux Tribe, unless the context clearly indicates otherwise (for example, "Family member").

1-2-13. "Reservation" means the Lower Brule Sioux Indian Reservation as established by treaty and Act of Congress and reserved rights and subsequent actions and agreements and court decisions.

1-2-14. "Reservation voter" means a person who is a legal resident on the Reservation and who is duly registered to vote on the Reservation. Qualified voters who are in the active military service, hospital, rest home, college or other such places, not for employment purposes, and who are residents of the Reservation at the time they entered such status shall be considered residents of the Reservation.

1-2-15. "Secretary of the Board" means the Secretary of the Election Board.

1-2-16. "Secretary of the Council" means the Secretary-Treasurer of the Tribal Council. Unless the Secretary of the Council in writing rejects the presumed designation, this Election Ordinance shall presume that the Secretary of the Council has designated the Election Board Chairperson to perform any of the election duties of the Secretary of the Council, *provided, however*, that, so long as this presumed designation is in effect, in event that the Chairperson is unable or unwilling to act, any other Election Board member may perform the designated duties of the Chairperson.

1-2-17. "Superintendent" means the chairman of the Election committee, unless the context clearly indicates otherwise (for example, "agency superintendent").

1-2-18. "Tribe" means the Lower Brule Sioux Tribe.

1-2-19. "Voter" means each enrolled member of the Tribe eighteen (18) years old or older, who shall be eligible to vote if he or she has maintained legal

residence within the Reservation for a period of one (1) year immediately prior to the Primary Election and if he or she is registered to vote.

1-2-20. An individual incarcerated in a jail or prison or detention center because he or she is serving a sentence shall not be able to vote in any Election. "An individual incarcerated" means an individual who is incarcerated at the beginning of the Election day and who must continue to be incarcerated of the Election day, regardless of whether that individual may be temporarily released for any reason at any time during the Election day.

CHAPTER 2. TRIBAL ELECTION BOARD:

Section 2-1. The Council shall appoint a Tribal Election Board plus five (5) alternates, at the regular February meeting each Election year.

Section 2-2. The Board shall consist of five (5) persons who may or may not be members of the Lower Brule Sioux Tribe and who, at their first meeting with a quorum, shall elect a Chairman, Vice-Chairman, and Secretary of the Board. A quorum of the Board shall be five (5) Board members and it shall take five (5) Board members voting affirmatively to pass any measure.

Section 2-3. The Board shall have power to make rules governing Elections and such rules shall be on writing and posted in a prominent place at least ten (10) days before an Election.

Section 2-4. The Council shall provide for per diem, mileage and expenses of the Board and of officials appointed by the Board or by the Council.

Section 2-5. Qualifications of the Board members:

2-5-1. Board members must be at least twenty-one (21) years of age.

2-5-2. No member of the Council or candidate for Council shall be a member of the Board. Nor shall a member of the Board be an immediate relative to a member of the Council or candidate for Council, pursuant to subsection 1-2-10 and section 10-2 of this ordinance.

2-5-3. During the ten (10) years immediately preceding his or her appointment to the Tribal Election Board, a Board member shall not have been convicted of a felony by any Indian, State or Federal Court.

Section 2-6. It shall be the duty of the Board to conduct all Elections in accordance with this ordinance and with any other ordinance adopted by the Council.

➤ Section 2-7. The Board shall be the judge of the qualifications of the voters and the qualifications of candidates for election to the Council, and the decision of the Board shall be final subject only to Tribal Court review.

Section 2-8. The Election Board shall prepare the following forms.

2-8-1. Nominating petitions for Council member, Secretary-Treasurer (Secretary of the Council), Vice-Chairman and Chairman.

2-8-2. Authentication of ballot for absentee voters.

2-8-3. Oath of challenged voter.

CHAPTER 3. DATES AND HOURS OF ELECTIONS:

Section 3-1. The dates of all Elections shall be as established by the Tribal Council, consistent with this ordinance and other applicable legal provisions.

Section 3-2. All polls shall remain open from 8:00 a.m. until 7:00 p.m. local time.

CHAPTER 4. SUFFRAGE AND THE RIGHT TO VOTE:

Section 4-1. The Board shall compile a list of voters for the purposes of checking off the name of each voter as he or she casts his or her ballot and of determining in the case of a challenge the right of the voter to cast a ballot. The list shall be posted no later than six (6) days prior to the Primary Election and a second updated list shall be posted no later than twenty (20) days prior to the General Election.

Section 4-2. No voter who is serving a sentence in a State or Federal penitentiary or other detention facility and who is not restored to civil rights can vote in any Election held by the Tribe.

Section 4-3. No voter who is in a Tribal, County, or City jail or other detention facility serving a sentence can vote in any Election held by the Tribe.

Section 4-4. No voter who is obviously intoxicated or otherwise obviously chemically impaired can vote in any Election held by the Tribe. The decision as

to who is intoxicated or chemically impaired shall be made by the Election committee or its designee(s).

Section 4-5. No Tribal member may vote in any Election unless he or she is registered to vote on the master registration list maintained by the Secretary of the Council.

CHAPTER 5. REGISTRATION AND QUALIFICATIONS OF VOTERS:

Section 5-1. The Board shall make a reasonable and good-faith effort to notify all known Tribal members eighteen (18) years of age and older of the need to register if they intend to vote.

Section 5-2. All persons who desire to register must register at the Tribal Office with the Secretary of the Council.

Section 5-3. A permanent registration list shall be prepared and maintained at the Tribal Office. Such permanent registration list shall be entitled the master registration list and shall be in a bound book with alphabetical listings, except as otherwise temporarily listed for new voters and so forth. The master registration list shall never leave the Tribal Office except that when an Election is to be held the Secretary of the Council shall see to it that a voter registration list is prepared and delivered to the Chairman of the Election Board. The Secretary of the Council shall certify that the registration list is correct when it is delivered.

Section 5-4. The master registration list shall include the name and address of each voter.

Section 5-5. At the end of each year, the Secretary of the Council shall delete from the master registration list the names of members who are known to have died. Also during the year when the Secretary of the Council learns that a voter has changed his or her address, the Secretary of the Council shall note the change of address in the master registration list.

Section 5-6. Any voter who changes address shall notify the Secretary of the Council so that the address may be changed on the master registration list.

Section 5-7. The master registration list shall always be open to public inspection during business hours.

Section 5-8. Any voter who has not voted in either of the two immediately preceding General Elections shall have his or her name deleted from the

registration list and shall have to be re-registered in order to vote. The Secretary of the Council shall notify the voter at his or her last known address that he or she has not voted in either of the two immediate preceding General Elections and that if the voter wishes to have his or her name maintained on the master registration list, then, within fifteen (15) days of the date written on that Secretary's notice, the voter must notify the Secretary of the Council that the voter intends to maintain his or her registration. If the voter does not so notify the Secretary of the Council within those fifteen (15) days, the voter's name shall be stricken from the master registration list and in order to vote he or she shall have to re-register.

Section 5-9. In order to vote in any Election, a voter must be registered to vote at least twenty (20) days prior to the Election, if such voter has not voted in either of the two (2) immediately prior successive General Elections.

Section 5-10. A Reservation voter may register by sending a letter to the Secretary of the Council in writing, stating the prospective voter's name and address and further stating that the prospective voter is at least eighteen (18) years of age and is eligible to be registered as a voter.

Section 5-11. The Secretary of the Council shall notify all voters by general publication that each voter should determine if that voter's address is still correctly listed on the master registration list. Any changes of address noted during this time shall be changed in the master registration list. Such published notice shall be given at least thirty (30) days prior to any Election in those years in which a General Election is held.

Section 5-12. The Council shall cause to be made a duplicate list of the registered voters that is kept in a safe place which is separate and distinct from the location of the original master registration list.

CHAPTER 6. NOMINATION AND QUALIFICATION OF CANDIDATES:

Section 6-1. Candidates for office shall be nominated by a petition signed by no less than five (5) registered voters of the Tribe. A voter may sign only one (1) petition. The petition shall designate the office for which the candidate is running. A petition for nomination shall be filed with the Secretary of the Council along with the required sum of money that is equal to the costs of each required background investigation of that candidate, plus each candidate shall pay the additional following respective filing fee to run for that office: Chairman: Five Hundred Dollars (\$500.00); Vice-Chairman: Four Hundred Dollars (\$400.00); Secretary-Treasurer: Three Hundred Dollars (\$300.00);

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Council Member: Two Hundred Fifty Dollars (\$250.00); Chief Judge: Four Hundred Dollars (\$400.00); Associate Judge: Two Hundred Dollars (\$200.00); Juvenile Judge: Two Hundred Dollars (\$200.00); Appellate Court Justice: Two Hundred Dollars (\$200.00). Nominating petitions shall be filed no earlier than the first Friday and no later than the third Friday in June of that Election year. This list of candidates shall be posted by the Election Board as provided herein.

Section 6-2. Any candidate for office who permits his or her name to be on the first list of candidates that is posted by the Election Board shall not be permitted to withdraw as a candidate for office unless he or she pays a withdrawal-penalty sum of money to the Secretary of the Council in an amount that is equal to one-half (1/2) of that candidate's paid filing fee to run for that office. No filing fee shall be refunded to a candidate whose name appears on the first list of candidates that is posted by the Election Board.

Section 6-3. A voter may sign only one nominating petition and in the event that one voter's name appears on more than one petition, the name on the petition with the earliest date of notarization of the declaration of candidacy shall be the name on the petition that shall be deemed to be valid; *provided, however*, that if the earliest date of notarization cannot be determined from each petition, then the voter shall be deemed to have NOT signed ANY petition. No petition shall be accepted after 4:30 p.m. local time on the deadline day for the filing of petitions. The Secretary of the Council shall note the date and time of the filing of the petition on the petition with an appropriate stamp or other device or means.

Section 6-4. The Board shall investigate the qualifications of candidates for office and certify the Primary candidates by the second Monday in July of that Election year in accordance with the qualifications set forth below in Section 6-5 of this ordinance. Any disqualified candidate shall have no right to a refund of his or her filing fee.

Section 6-5. Article IV, Section 8, of the Constitution and Bylaws of the Lower Brule Sioux Tribe provides:

"Qualifications of Councilmen. No person shall be a candidate for membership in the Tribal Council unless he shall be a member of the Lower Brule Sioux Tribe, at least twenty-one (21) years of age, shall not have been convicted by any Indian, State, or Federal Court and shall not have been involved in actions as defined by the Code of Ethics as

determined by the Tribal Council and courts of law, and shall have resided on the Lower Brule Reservation for a period of one year next preceding the election. A full pardon shall be accepted as erasing said conviction. Dishonorable Discharge that has been upgraded by the proper military authority shall also be accepted. The Election Board shall be the sole judge of the qualifications of candidates ensuring that each candidate is afforded due process."

Section 6-6. The election and procedures for judges shall be pursuant to Article VI, Section 1 (h and j), and Article VII of the Constitution and Bylaws of the Lower Brule Sioux Tribe; as well as pursuant to Title I, Chapter II, of the Lower Brule Sioux Tribe Law and Order Code.

CHAPTER 7. CHALLENGES TO QUALIFICATIONS OF VOTERS:

Section 7-1. Any challenges to the right of any person to vote or to the qualifications of any person to seek office in the Primary Election must be filed with the Board no later than three (3) days following the certification of candidates for the Primary Election. Board rulings shall be posted no later than nineteen (19) days following the certification of candidates. The time, date and place of the Board meeting at which challenges will be considered shall be posted as least two (2) days prior to the meeting.

CHAPTER 8. NOTICES OF ELECTIONS:

Section 8-1. After the Council has called for an Election and the Council appoints the Election Board at the regular February council meeting of each election year, the Board shall notify the Council members of the proposed date of each Election, consistent with Section 3-1, Section 19-1 and Section 18-2 of this ordinance.

Section 8-2. Notices of each Election and of the Election Ordinance and any rules made by the Board shall be posted at the Tribal Office no later than the first Wednesday in July of each Election year.

Section 8-3. The Board shall prepare a sample ballot for each Election which shall be posted in the Tribal Office no later than eleven (11) days following certification of candidates for that Election.

Section 8-4. The Board shall publish at least once, at least fourteen (14) days before each Election, a sample ballot to be used at the Election. Each such

publication shall be in news media that are regularly viewed by Tribal members.

CHAPTER 9. POLLING PLACES:

Section 9-1. The one polling place for the reservation shall be in the municipality of Lower Brule, South Dakota.

CHAPTER 10. ELECTION OFFICIALS:

Section 10-1. The Election committee may or may not be members of the Lower Brule Sioux Tribe and are appointed by the Election Board. The Election committee shall be in charge of the polling place. The Election committee shall consist of a superintendent, two (2) judges and two (2) clerks. The superintendent shall be Chairman of the Election committee.

Section 10-2. No candidate for office nor his or her immediate relative shall serve as a member of the Election committee. If any member of the Election committee becomes a candidate for office or if a vacancy shall occur for any other reason – and whether or not the remaining Election Board members make up and constitute a full quorum of the Election Board – a majority of the remaining Election Board members shall appoint another person to the Election committee. If a majority of the remaining Election Board members cannot agree to the appointment of a new Election committee member, then the Board shall supervise the election of the committee member through some form of unpredictable chance (such as one or more coin-tosses; high-card selection from a deck of cards; selection of the shortest straw; etc.).

Section 10-3. The Board may appoint one or more monitors fifteen (15) days prior to the Election, to observe the Election process. A monitor may be an employee of the Bureau of Indian affairs. A monitor need not be a member of the Lower Brule Sioux Tribe. The duties of each monitor shall be to observe the Election process and report any infractions to the committee, the Council or the Board. The Board may appoint a reasonable number of interpreters to assist at the polling place.

Section 10-4. At least ten (10) days prior to each Election, it shall be the duty of the Board, assisted by such other persons as the Board deems necessary, to call together all of the Election officials and any other persons connected with the Election at convenient times and places and instruct them of their duties.

Section 10-5. These appointments of election officials and others must be in writing and must be given to the Election committee.

CHAPTER 11. BALLOTS AND ELECTION SUPPLIES:

Section 11-1. The Board shall have printed a sufficient number of ballots, and shall see to it that ballot boxes and pencils and other materials necessary for the conduct of the Election shall be delivered to the polling place and to the Election committee on the day of each Election. The supplies shall include tally sheets and voting registration list and other such materials as are necessary.

CHAPTER 12. ARRANGEMENT AND CONDUCT OF VOTING:

Section 12-1. The superintendent of the Election committee shall perform and cause to be performed the duty of erecting and having ready for the Election a sufficient number of booths to accommodate the voters in the voting place. The Council shall furnish booths together with supplies and conveniences to enable each voter to prepare his or her ballot conveniently. The booths shall cause the voters to be screened from observation while voting.

Section 12-2. Before the opening of the polls, the Election committee shall count and verify the number of ballots delivered to the committee by the Board for the purposes of the Election. The superintendent of the Election committee shall certify in writing and verify the number of ballots delivered to the committee.

Section 12-3. As to the members of the Election committee, the superintendent shall have charge of the voter registration list and shall designate one of the judges who shall then have charge of the official ballots and the official stamp, and the other judge shall be in charge of receiving and depositing in the ballot box the ballots as they are voted.

Section 12-4. The Election committee shall remain at all times at the polling place and shall further remain at the polling place until the votes are counted and the results are turned over to the Board.

Section 12-5. All voting shall be by secret ballot and all votes shall be placed in a locked, sealed ballot box.

Section 12-6. Any voter who requests assistance in voting because of incapacity or blindness or the need for an interpreter shall be assisted by the Election committee or interpreters, as needed. The Election committee shall

take all necessary precautions to see that any voter needing and receiving assistance shall not be influenced in casting his or her vote.

Section 12-7. There shall be no Electioneering within one hundred (100) feet of the polling place. Electioneering shall mean maintaining an office or communications center or public address system or displaying campaign posters, signs or other campaign materials or in any manner soliciting votes for or against any person or a position on a question submitted to the voters.

Section 12-8. A police officer shall be on duty at the polling place during the time that the polls are open. In the event the police are not able or not willing to provide a police officer for such duty, and upon the written request to the Tribal Council from the chairperson of the Election Board requesting security at the polling place during the time the polls are open, the Tribal Council shall hire appropriate private security for duty at the polling place while the polls are open.

Section 12-9. If the Board determines that only enough candidates have filed to fill the positions available for Election, no Election shall be held and all persons who have filed shall be declared elected.

Section 12-10. Winners of the Election shall be determined by a plurality of the voters.

Section 12-11. The Council shall see to it that sufficient food is brought to the polling place for the use of the Election committee, the monitors and the police officer.

Section 12-12. Before opening the polling place, each ballot box shall be carefully examined by the Election committee and everything therein shall be removed. After sealing and locking them, the ballot boxes shall not be opened until the votes are ready to be counted.

Section 12-13. Both clerks of the Election committee shall keep separate lists which shall contain in numerical order the names of all persons voting at the Election. The clerks shall write down the name of each person presenting himself or herself for voting and shall obtain his or her signature on a major voter list.

Section 12-14. Any voter whose name appears on the registration list in the possession of the Election committee shall be entitled to vote at the Election.

Section 12-15. Poll watchers shall be allowed to position themselves where they can plainly see and hear what is done within the polling place. Such polling place shall be arranged so that poll watchers shall be accommodated. The monitors who are appointed shall represent the Tribe at large and shall not be representatives of any person, faction or group. Each candidate shall be allowed one official position to watch the voting.

Section 12-16. The superintendent of the Election committee shall order poll watchers and voters waiting to vote to position themselves where they cannot see into the voting booths occupied by voters in the act of voting and where they will not interfere with the official actions of the Election committee.

Section 12-17. Each member of the Election committee and the police officer shall remove materials that may constitute Electioneering and also may order any disobedient person who is interfering with the Election process to leave the polling place.

Section 12-18. Except for a challenge of a voter under the provisions of section 4-4 of this ordinance (intoxicated voter), no challenges as to the eligibility of a voter may be made on election day. Section 7-1 of this ordinance provides the only process for challenging the qualifications of a voter.

Section 12-19. The judge having charge of the ballots, before delivering a ballot to any voter, shall stamp that ballot on its back and near the top with the official stamp provided for that Election.

Section 12-20. No voter shall receive or vote a ballot from any other person than the judge of the Election committee having charge of the ballots.

Section 12-21. On receipt of his or her ballot, the voter shall forthwith, and without leaving the polling place, go alone to one of the voting booths provided to cast his or her vote, unless said voter needs assistance because of incapacity or blindness or the need for an interpreter.

Section 12-22. The voter shall cast his or her vote without delay. No voter shall be allowed to occupy a voting booth for more than five (5) minutes for each ballot while unspoiled. Once a voter has voted and cast his or her ballot, he or she shall not be allowed to re-enter the voting booth unless he or she is a member of the Election committee.

Section 12-23. The voter shall use a pencil or pen to mark his or her ballot and no stamp or instrument other than a pencil or pen shall be used for such purpose.

Section 12-24. No voter shall place any mark upon his or her ballot by which it may afterwards be identified as the one voted by him or her.

Section 12-25. Every voter who does not vote a ballot delivered to him or her by the judge of the Election committee having charge of the ballots shall, before leaving the polling place, return the ballot to the judge.

Section 12-26. A list of voting instructions shall be drawn up by the Board and posted in each voting booth.

Section 12-27. If any voter spoils a ballot, he or she may obtain another ballot, and so on, successively not to exceed three (3) ballots in all, upon returning to the clerk the spoiled ballot. In obtaining the ballot to replace the spoiled one, the name of the voter shall be given and the number of the ballot so spoiled, which number shall be noted opposite his or her name as "spoiled." The ballots thus returned shall be forthwith cancelled by writing the words "spoiled and replaced" across the face of the ballot and all such ballots shall be placed in a separate envelope identifying them as such and stating the number thereof for the counting purposes at the end of the day.

Section 12-28. Any voter who by reason of physical disability is unable to mark his or her ballot may receive the assistance of any person whom he or she may select if he or she does not want the assistance of the Election committee or the interpreters appointed by the Election committee.

Section 12-29. After his or her ballot has been marked, no voter shall show it to any other person in such a way as to reveal the contents thereof, or to reveal the name of any candidate for whom he or she has voted. Neither shall any person solicit any voter to show the same. Immediately after marking his or her ballot, the voter shall fold and refold the ballot, if necessary, for deposit in the ballot box in such a way that the official stamp shows when it is handed to the judge; *provided, however*, that this section shall not apply if the ballot-submission process assures that the voter's choice cannot be revealed.

Section 12-30. After the judge receives the ballot with the official stamp showing, the judge in charge of the ballot box, without opening the same or permitting it to be opened or examined except to ascertain whether it be a

single ballot, shall deposit it or permit it to be deposited in the ballot box, making additional folds as necessary to deposit it.

Section 12-31. Except for those ballots marked "spoiled and replaced" and placed in their identifying separate envelope, all ballots which have not been distributed to voters, together with a record of ballots stating the number of ballots voted, the number of ballots spoiled and replaced, and the number of ballots not delivered to voters, shall be placed in a parcel separate from the ballot box and certified to be true and correct number by the superintendent of the Election committee, through the superintendent's certified statement.

Section 12-32. The Board, on receipt of the unused, defective or spoiled ballots, along with the superintendent's certified statement mentioned above, shall carefully compare the same with the record that the Board has kept of the number of ballots sent to the polling place. If the same are not accounted for in the superintendent's certified statement aforementioned, the Board at once shall notify the person sending the same, who shall, with the Chairman of the Board, recount the unused, defective and spoiled ballots and correct, if possible, such errors, if any there be, in such count or statement.

Section 12-33. Sample ballots - each marked clearly "Sample Ballot" - shall be posted in prominent places at the polling place on Election day.

Section 12-34. The Election committee shall direct a monitor to check the voting booths after every person has voted to determine that no materials have been left within the voting booth.

CHAPTER 13. ABSENTEE VOTING:

Section 13-1. All voters who expect to be or may be absent on the day on which an Election is held, or who may be on the Reservation on the day the Election is held but because of permanent and total disability, or because of resident attendance of school, college or university, or because of the nature and hours of his or her employment, shall be unable to vote in person, may request an absentee ballot.

Section 13-2. At any time until 3:00 p.m. local time on the day of the applicable Election in which he or she desires to vote by absentee ballot, an absentee voter may apply to the Chairman of the Election Board or in his or her absence the Secretary of the Council for an absentee ballot. The application or request shall be made in writing, and shall be signed by the applicant, and shall state the address to which the ballot shall be sent or

delivered, and the reason for which the ballot is requested. The authorized person receiving the application shall stamp the application with the date that it was received and the application shall be filed. The application may be made by letter upon official forms. The person receiving the application shall preserve a record of the absentee voter's name and post office address. The person receiving the application shall then submit the application to the Election committee. Upon finding such eligibility, the Election committee shall send the absentee ballot approval to the Secretary of the Council. The Secretary of the Council then shall send the absentee ballot to the applicant.

Section 13-3. In the event of sickness or confinement, a qualified voter may apply in writing for and obtain an absentee ballot by authorized messenger so designated in writing by the voter, up until 3:00 p.m. local time on the day of the applicable Election. The person to whom the application is made is authorized to deliver to such authorized messenger a ballot to be delivered to the qualified voter.

Section 13-4. If the authorized messenger is an authorized messenger for more than one voter, that authorized messenger must notify the person who receives the application of all voters for whom he or she is a messenger.

Section 13-5. Upon receiving an application for absentee ballot, the qualified person receiving the application shall at once, or if ballots are not then on hand, within forty-eight (48) hours after the receipt of the ballots, after confirming from the master registration list that the applicant is registered as a voter, prepare for mailing or delivery an official ballot, a set of instructions on absentee balloting, and an unsealed return envelope. All of the enclosures prepared for mailing or delivery shall be sealed in an envelope addressed to the applicant at the place stated in his or her application. In the lower left corner of the envelope shall be printed the words, "This envelope contains the official ballot, instructions, and return envelope."

Section 13-6. The unsealed return envelope for the absentee voter's ballot shall have printed on the reverse side thereof an affidavit, to be signed by the voter before a notary public. That unsealed return envelope shall have the following requirements:

13-6-1. It shall be of minimum practicable size and weight.

13-6-2. Across the face of the envelope shall be printed in large type the words "Absentee voting material."

13-6-3. In the upper left corner of the face of the envelope shall be printed the name and address of the person to whom the absentee ballot should be mailed.

Section 13-7. The instructions that are mailed to the voter shall include the following:

13-7-1. Complete the affidavit on the back of the return envelope and then have the notary public complete the form.

13-7-2. While the notary public is notarizing your signature on the return envelope, you should mark your ballot privately.

13-7-3. Fold the ballot separately and put the ballot in the return envelope and seal it.

13-7-4. Send the return envelope by mail, or have the return envelope delivered to the Chairman of the Election Board or the Secretary of the Council, or have the notary public mail it for you.

Section 13-8. The Election committee shall keep all absentee ballot envelopes.

Section 13-9. The official return envelope for the absentee voter's ballot shall contain the following specifications:

13-9-1. It shall be of minimum practicable size and weight.

13-9-2. In the upper left corner of the face of the envelope shall be printed appropriate blanks for the return address of the voter.

13-9-3. In the lower left corner of the envelope shall be printed the words "Official ballot to be voted at Lower Brule, South Dakota, on the Election to be held therein on the ____ day of _____, ____."

13-9-4. On the upper right hand corner of the face of the envelope, directly to the left of the postage stamp, there will be printed the words, "To be mailed and delivered personally by the voter or certifying officer."

13-9-5. The return envelope shall be self-addressed either by printing or otherwise to the Secretary of the Council or the Chairman of the Board, as the case may be. The return envelope shall have printed, on the reverse thereof, the following certification:

State of _____)
) ss
 County of _____)

I, being duly sworn, state that I am a registered voter in the district as stated on the front of this envelope, and that I herein enclose my ballot.

 Signature of Voter

Subscribed and sworn before me, this ____ day of _____,

(SEAL)

 Officer administering oath

13-9-6. The return envelope shall have printed on the flap in one-half inch bold type the following words: "To official administering oath – imprint your seal before the ballot is placed in the envelope."

Section 13-10. Although the voter may send a letter for an application for an absentee ballot, the following instead may be used as an official form.

APPLICATION FOR ABSENTEE BALLOT

TO WHOM IT MAY CONCERN:

I hereby apply for an absentee ballot for _____ Election. My permanent address is _____. I shall be unable to vote in person at the polling place due to the following disability or absence: _____. I request the ballot to be mailed to me at _____ or delivered to me by _____ (name of person and address).

 Voter's Signature

Section 13-11. All absentee ballots that are returned shall be delivered to the Chairman of the Board and kept sealed in a locked box for the Election committee. At the opening of the polls on the day of the Election, the Chairman of the Board shall deliver the absentee ballots that have been cast to the Election committee, and he or she shall see to it that the ballots are kept in a safe place until the ballots are counted. Ballots that are received on the day of the Election may be delivered at any time to the Election committee while the polls are open.

Section 13-12. All absentee ballots shall be placed into the ballot box before the ballot box is opened in order that no one will be able to determine how a person voted by absentee ballot. The official voting stamp shall be placed on each absentee ballot before that ballot is placed into the ballot box.

Section 13-13. The Election committee shall accept absentee ballots until the polls have closed, but no later.

Section 13-14. No person receiving the ballots shall ever look to see how any person voted.

CHAPTER 14. RETRURN AND CAVASSING OF VOTES:

Section 14-1. After the polls shall have been closed, the Election committee shall allow all persons who are still in line at the closing of the polls to cast their votes. The superintendent of the Election committee shall then announce that the polls are closed.

Section 14-2. After the announcement, the Election committee shall then immediately proceed publicly to count, in the presence of all persons desiring to watch the counting, the votes received at the polls, and continue without adjournment until the counting is completed. In making the counting, they shall commence by a comparison of the poll lists and the correction of any mistakes therein until the poll lists shall be resolved or made to agree.

Section 14-3. The ballot box or boxes shall be opened and the ballots taken out and sorted, so that each of the same type of ballots is in a separate pile.

Section 14-4. If the number of the ballots in the ballot box shall be found to exceed the number of the votes on the poll lists, the ballots shall be put back into the box, and one of the judges shall publicly draw therefrom as many

ballots, unopened, as shall be equal to such excess. These ballots shall be drawn at random and shall not be counted.

Section 14-5. Each vote for a candidate shall be counted in the order in which the candidate is listed upon the ballots. Each clerk shall have a tally sheet and each clerk shall mark the votes for the candidates as they are announced. The superintendent shall announce each vote one at a time and the clerks shall mark the votes as they are announced on the tally sheet.

Section 14-6. During the counting, any ballot which is not stamped shall be void and not be counted. Any ballot or part of a ballot from which it is impossible to determine the voter's choice shall render the entire ballot void, and none of the ballot shall be counted.

Section 14-7. In case any voter has voted for more offices than are to be elected, the entire ballot is void and shall not be counted.

Section 14-8. Any cross or check mark or other clearly-intended mark in any form that appears in whole or in part within the box or circle placed for voting for the candidate shall be counted as a proper vote.

Section 14-9. After the ballots have been counted, the clerks shall compare their tally sheets to see if they are correct and if there is a discrepancy, the ballots shall be counted again until both tally sheets are reconciled. All members of the Election committee shall then sign the tally sheets. The committee shall fill out a recapitulation sheet, which shall be in the following form:

Ballots received from the Chairman of the Board.
 Ballots received after the polls are opened.
 Absentee ballots received.
 Total ballots received.
 Voter ballots.
 Unused ballots.
 Spoiled ballots.
 Total ballots returned.

The total ballots received and total ballots returned must be the same number. The committee then shall deliver the recapitulation sheet together with the tally sheets, the spoiled and unused ballots, and all other Election materials to the Chairman of the Election Board. They shall not be placed in the ballot box.

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Section 14-10. Before the ballot box is returned to the Chairman of the Board, all of the voted ballots shall be placed back into the ballot box and the judges shall seal the ballot box with the metal seal or padlock. A paper seal shall be used to cover the slot or any other opening on the ballot box through which the ballots are deposited during the course of voting. The paper seal shall be in the following form:

BALLOT BOX SEAL:

The Election Committee Members sign:

Section 14-11. Upon returning ballots to the ballot box after counting, the Election committee shall sign these seals and affix them to the ballot box opening and upon all places where the box may be opened except where the openings are sealed with the metal seal or padlock. The ballot box seal shall be of a glued or gummed type so that it can be glued or posted on the ballot box.

Section 14-12. The Board shall then meet and certify the returns by declaring those candidates who have received the highest number of votes to be elected. The certification shall be made to the Tribal Council within three (3) days after the date of the Election, and copies of the certification shall be posted in the Tribal Office, Bureau of Indian Affairs Office and other appropriate places.

Section 14-13. The Chairman of the Board shall see that the ballot boxes and tally sheets are sealed and shall, along with the superintendent of the Election committee, deliver the ballot boxes and tally sheets to the police for safekeeping for one year. A police officer (or private security officer hired by the Tribal Council) shall accompany the Chairman of the Board and superintendent of the Election committee while the ballot boxes and tally sheets are delivered to the police for safekeeping.

Section 14-14. The following rules apply during the counting of the ballots:

14-14-1. During the counting of the votes, any candidate (or his or her representative) may witness the counting of the ballots. If any person watching the ballot counting is making noise or being disorderly, the superintendent of the Election committee may order him or her to leave.

14-14-2. During the counting of the ballots, a police officer (or private security officer hired by the Tribal Council) shall be present in the room where the ballots are counted.

Section 14-15. The Board shall look at all ballots determined to be rejected by the Election committee and shall make the final ruling. Any ballot that the Board finds should not have been rejected by the Election committee shall be declared counted and shall be figured into the totals for each candidate.

Section 14-16. Any challenge to the certification of the Election, other than a recount as provided herein, shall file such challenge in the Tribal Court within five (5) days of the certification. Such challenge shall not hinder the installation of Tribal Council members.

Section 14-17. Any challenge filed in Tribal Court shall be finally determined within twenty (20) days of the filing date.

CHAPTER 15. RECOUNTS:

Section 15-1. Any candidate who has lost by a margin of two percent (2%) or less of the votes cast in that election may request a recount.

Section 15-2. The request for a recount must be in writing and must be delivered to the Chairman of the Board within three (3) days after the Election.

Section 15-3. Thereafter the Election Board in regular meeting shall either appoint a committee or shall order the Election committee to recount the ballots. After the ballots have been recounted they shall again be certified by the committee doing the recount to the Election Board.

Section 15-4. When a tie vote is found to exist between candidates, there shall be an automatic recount. If at the end of the recount there is still a tie vote, the Board shall inquire of the candidates who were tied if they wish to have the Election determined by lot. If the candidates so wish to have the Election determined by lot, the Chairman of the Board shall determine by lot who was the winner. If the candidates do not wish to have the Election determined by lot, a runoff Election between the candidates involved in the tie vote shall be held and the Election shall be conducted as a regular Election is conducted. A runoff Election shall not be required if the tie vote does not affect the outcome of the Election.

Section 15-5. The candidate or his or her representative can witness all recounts.

Section 15-6. The Board shall certify the results and notify the Council within three (3) days after the runoff Election. The results shall be public.

Section 15-7. Following a recount, the Chairman of the Board shall see that the ballot boxes and tally sheets are sealed and shall, along with the superintendent of the Election committee, deliver the ballot boxes and tally sheets to the police for safekeeping for one year. A police officer (or private security officer hired by the Tribal Council) shall accompany the Chairman of the Board and superintendent of the Election committee while the ballot boxes and tally sheets are delivered to the police for safekeeping.

Section 15-8. During the counting of the ballots in a recount, a police officer (or private security officer hired by the Tribal Council) shall be present in the room where the ballots are counted.

Section 15-9. Conduct of a recount shall follow the procedural rules governing the counting of ballots as set out in this ordinance.

CHAPTER 16. CERTIFICATION OF ELECTION:

Section 16-1. The Election Board appointed by the Tribal Council shall certify the results of the Election by posting copies of the certification in the Tribal Office, Bureau of Indian Affairs Office, and other places as appropriate. This posting shall be done within three (3) days after the Election. Any appeal to the certification must be filed with the Tribal Court within five (5) days after the posting in the Tribal Office. Any appeal shall not hinder the installation of the Council members.

CHAPTER 17. SEATING OF ELECTED CANDIDATES:

Section 17-1. After the certification of the Election has been issued, the Chief Judge of the Lower Brule Tribal Court shall swear in the newly elected Tribal Council Officers and members at the first regular meeting of the Council pursuant to the Constitution and Bylaws of the Lower Brule Sioux Tribe. At such ceremony the following oath of office shall be administered by the Chief Judge of the Lower Brule Tribal Court as provided in Article IV of the Constitution and Bylaws, as amended.

"I, _____, do solemnly Swear (or affirm) that I shall preserve, support, and protect the Constitution of the United States and the Constitution and Bylaws of the Lower Brule Sioux Tribe to the best of my ability, so help me God."

CHAPTER 18. PRIMARY ELECTION:

Section 18-1. Should the certified nomination petitions of any office exceed two (2) in number for any office, a Primary Election shall be held with respect to that position, such Election to be held pursuant to the Election ordinance herein. If only two (2) petitions are certified the names shall automatically be placed on the General Election ballot.

Section 18-2. The Primary Election shall be held on the first Tuesday in August of each year in which a General Election is held. Conduct of the Primary Election shall follow the procedural rules governing the general Election set out herein.

Section 18-3. The candidates receiving the highest and second highest number of votes cast in the Primary Election for the office for which they are a candidate shall be declared the candidates for that office in the General Election, and their names shall be placed on that ballot.

Section 18-4. Any person who is unopposed for an office shall automatically become the elected official for that office and his or her name shall not be placed or printed on the ballot.

CHAPTER 19. GENERAL ELECTION:

Section 19-1. There shall be a General Election held on September 13, 1994. Thereafter, each General Election shall be held on the first Tuesday in September of each year in which a General Election is held.

Section 19-2. The Election Board shall certify the Election on September 16, 1994. Thereafter, the Election Board shall certify the General Election on the first Friday in September following each General Election.

Section 19-3. The new Council shall be sworn in on the first Wednesday in October of each year in which a General Election is held.

Revised: _____, 2013