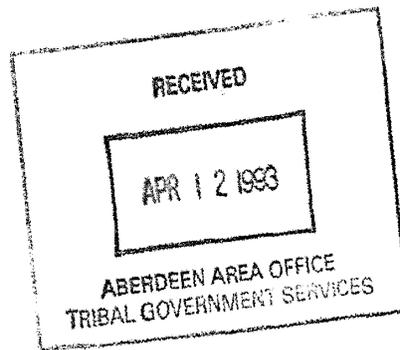


ELECTION ORDINANCE

DEVILS LAKE SIOUX TRIBE



DEVILS LAKE SIOUX TRIBE
Resolution No. A05-93-150

WHEREAS, the Devils Lake Sioux Tribe of Indians acting under a revised Constitution dated May 5, 1960, approved by the Acting Commissioner, Bureau of Indian Affairs, July 14, 1961, and as subsequently amended June 17, 1969, and

WHEREAS, the recent passage and subsequent approval by the Area Director, Bureau of Indian Affairs, of Amendments to the Tribe's Constitution and Bylaws warrants a change to the Tribal Election Ordinance for uniformity purposes, and

WHEREAS, the Devils Lake Sioux Tribal Council is empowered to enact any ordinance which would best serve the interests of the Tribe pursuant to Section 4., **ARTICLE VI - GOVERNMENTAL AUTHORITIES**, and

NOW THEREFORE BE IT RESOLVED, that the Devils Lake Sioux Tribal Council hereby rescinds Tribal Ordinance No. A05-76-174 which was previously adopted on May 3, 1976, and

BE IT FURTHER RESOLVED, that the following Ordinance, hereinafter referred to as the Tribal Election Ordinance, is hereby enacted, promulgated, and adopted:

PART I

Excerpt from Constitution and Bylaws approved April 16, 1976

ARTICLE V - NOMINATIONS AND ELECTIONS

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Sample forms or exhibits are found on pages 15 through 19

**ELECTION ORDINANCE OF THE DEVILS LAKE SIOUX TRIBE
FORT TOTTEN, NORTH DAKOTA**

PART I

Excerpt from Constitution and Bylaws approved through 1991.

ARTICLE V - NOMINATION AND ELECTIONS

(a) Every election shall be by secret ballot and a majority vote shall govern.

(b) Every enrolled member of the Devils Lake Sioux Tribe of the age of 18 years or more, who has resided on the Reservation for a period of one year immediately prior to the election, shall be entitled to vote in any election.

(c) Every eligible voter shall register in the district of such voter's residence at the time of the election.

(d) Every eligible voter of the age of 25 years or more shall be eligible to be a candidate for district representative or for any tribal office.

(e) Every eligible candidate shall file a notice of intent to run for office on or before the third tuesday of March.

(f) A primary election shall be held to select two qualified candidates for each office to be filled at the general election.

(g) The primary election shall be held on the third Tuesday of April. If the day on which the primary election is to be held occurs on a holiday, the election shall be held on the next regular business day.

(h) If the primary election cannot be held as provided for herein for any reason, the Tribal Council shall set the dates for the filing of notices of intent to run and for the primary election.

(i) the general election shall be held 14 days after the primary election. If the day on which the general election is to be held occurs on a holiday, the election shall be held on the next regular business day.

(j) The Tribal Council shall enforce this article by appropriate legislation.

Sec. 2.

(a) The reservation shall consist of four districts and shall have representatives as follows:

Crowhill District	1 Representative
Fort Totten District	1 Representative
Mission District	1 Representative
Woodlake District	1 Representative

(b) Votes for candidates for District Representatives shall be confined to the eligible voters of the District the candidate is to represent. Votes for the Secretary-Treasurer and Chairman shall be on a reservation-wide basis.

(c) The four districts are described as follows:

Crowhill District

All territory within the boundaries of the Reservation lying west of the north-south line dividing township R.66W and R.65W.

Fort Totten District

All territory within the confines of the reservation boundary on the east by Road No. 3 known as the Sheyenne Road and the Ski Jump Road, State Highway #57 and Road No. 1 running north from HWY #57 along the Township line between T. 152N., R65W., and T 152N., R64W., and bounded on the west by the North-South line dividing Range 65W and R66W.

Mission District

All territory within the confines of the reservation bounded on the west by Road No. 3 known as the Sheyenne Road, the Ski Jump Road, State Highway #57 and Road No.1 running north from HWY #57 along the Township line between T. 152N., R65W., and T. 152N., R64W., and bounded on the south by the East-West line between Townships T152N and T151N.

Woodlake District

All territory within the confines of the reservation bounded on the west by Road No. 3 known as the Sheyenne Road and on the north by the East-West line between Townships T152N and T151N.

Sec. 5. (a) Not Applicable.

(b) The terms of office of the officer and the district representatives elected in the 1991 general election shall be four years.

(c) The terms of office of the officer and the district representatives which do not expire in 1991 shall be extended for one additional year.

(d) The terms of office of each officer and each district representative elected after the 1991 general election shall be four years.

(e) The annual election of the governing body shall be held on the first Tuesday after the first Monday in May.

(f) If the general election cannot be held as provided for herein for any reason, the Tribal Council shall set the date for the general election so as to provide candidates an appropriate amount of time in which to campaign for office.

(g) If the day on which the general election is to be held occurs on a holiday, the election will be held on the next regular business day.

BYLAWS

Sections 1 through 4: Not Applicable.

Sec. 5. The newly elected district representatives (councilmen) and officers shall be installed in office at the first regular meeting of the tribal council after certificates of their election have been issued.

PART II

PROCEDURES

Be it enacted that:

Sec. 1. Election Board: The Devils Lake Sioux Tribal Council appoints a Devils Lake Sioux Tribal Election Board consisting of four members to conduct the general election in accordance with the election procedures set forth in this ordinance. No tribal officer, representative or a candidate for office shall serve as an election official. The Election Board, when employed, shall be compensated at a daily fee to be set by the Tribal Council. The Election Board shall be appointed for a one year term of office or as designated by the Tribal Council.

Sec. 2. District Election Committee: The Election Board shall appoint two judges, two alternates and one clerk as the District Election Committee. The District Election Committee, when employed, shall be compensated at a daily fee set by the Tribal Council. The alternates are to be compensated only when actually employed.

Sec. 3. Duties of the Devils Lake Sioux Tribal Election Board:

(a) Except for the 1993 election on the eligibility of candidates that is covered under separate exhibit on page 20, the Election Board shall prepare a notice of the date of the election which shall be posted in public places and publicized inviting qualified candidates to file their notice of intent (see page 15 for sample) to run for office with the Chairman of the Election Board prior to the third Tuesday in March. The notice shall also designate the four polling places, one for each district and hours for voting. The four member board shall review each candidate for eligibility according to Article V of the Tribal Constitution, specifically Section 4 through a criminal history check with the Bureau of Indian Affairs or the Federal Bureau of Investigation. Should any candidate be found ineligible to run for office, they must immediately be notified by certified mail or hand delivered by an officer of the court or law enforcement official giving them at least three (3) days to produce evidence that would allow the Board to change its ruling.

(b) Will cause to be printed sufficient ballots for both the primary and general election and at least 100 extra ballots over the number of voters in the last election.

(c) The ballots shall be printed. One for each district showing the district name, listing of candidate for representative with the listing of the candidate for Chairman or Secretary-Treasurer on another ballot of a different color from the district.

(d) Take care of all details having to do with furnishing supplies, the setting up of election booths, delivery of ballots to the District Election Committee and obtaining a receipt for them from the Chairman of that committee.

(e) Prior to the opening of the polls, each judge shall hold open for inspection the empty ballot box and note the name or names of persons witnessing the ballot box and its subsequent locking by combination padlock.

(f) Posting of sample ballots at the voting places and generally overseeing the conduct of the election.

(g) Publicly announce the voting results upon confirming the tallied count from the original certificates received from the District Election Committees for the District Representatives and the Chairman or the Secretary-Treasurer.

(h) Prepare a certificate reflecting the results of the voting by districts for the officers and representative candidates. See page 16 for sample.

(i) Prepare a certificate stating the names of the elected officers and district representatives. See page 17 for sample.

(j) All padlocked ballot boxes with copies of the certifications, used and unused ballots, registration books, etc., received by the Election Board from the District Election Committees after completing the certifications by the Devils Lake Sioux Tribal Election Board will be placed in the custody of the tribal police for a period of 60 days after which they will be returned to the Tribal Council for disposition.

(k) All padlocks for ballot boxes must be of the combination type with only the Chairman of the election board with the combinations.

Sec. 4. Duties of the District Election Committee:

(a) Oversee the registration of all voters.

(b) Deliver a ballot to the eligible voter and instruct the voter when requested in marking his ballot.

(c) When assistance is required of the judges, they (both) shall accompany the voter to the booth and assist him in the marking of his ballot. The judges shall refrain from influencing the voter in his marking of the ballot.

(d) After marking the ballot, the voter shall fold the ballot and hand it to the judge who will make sure the voter is registered, initial the ballot and place it in the box.

(e) At the closing of the polls, the District Election judges will publicly count the ballots at the voting place and the clerk will tabulate the voting results for all candidates.

(f) The District Election judges and clerk will certify the election results to the Devils Lake Sioux Tribal Election Board. The certification will be prepared in an original and two copies showing the list of candidates for each office with the number of votes cast for each candidate, etc. See page 18 for sample.

(g) After tallying and certification, the marked ballots will be placed in the ballot box, along with the number of unused ballots, the original registration book of the voters, and two copies of the certification results, padlocked ballot box, and delivered the same day to the Devils Lake Sioux Tribal Election Board.

Sec. 5. Oath of Office: The Election Board and District Election Committee will take an oath in the following form: "I, _____, do solemnly swear that I will perform the duties of a member of the (Devils Lake Sioux Tribal Election Board and/or District Election Committee, whichever is applicable) according to the Constitution and Bylaws and this election ordinance to the best of my ability and that I will endeavor to insure a fair election." See page 19 for sample. The oath shall be administered by any member of the Election Board or District Election Committee to the selected chairman or first judge, who in turn shall administer the oath to the other members.

Sec. 6. Orientation and Instruction: The Election Board and District Election Committee will meet prior to the primary election to discuss these procedures and will also convene the day prior to the General Election for instructional purposes in conducting the election and to prepare the ballot boxes for delivery on election day.

Sec. 7. Ballot Boxes, Materials, Keys, etc: Before receiving any marked ballots, the District Election Committee must, in the presence of all persons assembled at the polling place, open and exhibit the ballot box, remove any contents, and then close and lock the combination padlock on the ballot box. Thereafter the ballot box must not be removed from the polling place or from the presence of the public nor opened until the polls are closed and the District Election Committee is canvassing the ballots. The counted, challenged, spoiled, and the unused ballots, tally sheets, two certified copies of the voting certification, and the original registration book, shall be placed inside the ballot box securely padlocked and delivered directly to the Election Board to be placed by them in the custody of the Tribal Police for safekeeping. The original and copy of the voting certification of the results shall be delivered to the Election Board

immediately after the counting of the ballots for final tabulation. During its safekeeping by the Tribal Police, the padlock to the ballot box will only be broken wherein a substantiated appeal (Sec. 10) has been approved by the Election Board and an authorization given for the opening of the ballot box or boxes.

Sec. 8. Spoiled Ballots: Any voter who spoils a ballot shall be entitled to a new ballot upon surrender of the spoiled ballot to the election judge. No voter shall receive more than one additional ballot. Each spoiled ballot shall be kept in a separate envelope securely sealed and marked "Spoiled Ballot" with the name of the voter on the envelope and the envelope initialed by an election judge. All spoiled ballots shall be accounted for separately on the tally sheet.

Sec. 9. Tie Vote: When a tie vote is found to exist between the top two candidates running for an officer's position or representative, it shall be the duty of the Election Board to set a date within thirty days after the date of the general election for a runoff election between the candidates involved in the tie vote.

Sec. 10. Appeals: (a) Any protest, appeal or challenge of the tribal election concerning any candidate or the conducting of the election must be made within three days to the Devils Lake Sioux Tribal Election Board after the certification of the election results. The protest, appeal or challenge must be in writing by the complainant and filed with the Election Board. The decision by the Devils Lake Sioux Tribal Election Board on a protest, appeal or challenge concerning any candidate or the conducting of the election shall be final.

(b) The Devils Lake Sioux Tribal Court shall have jurisdiction to hear and determine all challenges to any decision of the Devils Lake Sioux Tribal Election Board on a protest, appeal or challenge concerning any candidate or the conducting of the primary or general election.

(c) Any challenge pursuant to subparagraph (b) of this section must be filed as a civil action in the tribal Court within three days following the challenged Election Board decision.

(d) The Tribal Court shall hear and determine any action filed pursuant to subparagraph (b) of this section within ten (10) days following the filing of the action.

(e) No appeal may be taken of any Tribal Court order or judgment in an action challenging a decision of the Election Board.

Sec. 11. Registration:

(a) The District Election Committee Clerk will register the voters.

(b) There shall be two books of registration. One book in which the voter signs his name and the other one for the clerk to copy the voter's name for reference purposes, if needed.

(c) The clerk will use and check the tribal rolls in case of doubt as to the persons eligibility, i.e., name, date of birth and age. The two judges will then determine the voter's eligibility to cast a vote. The eligibility will be determined in accordance with Article V, Section 2 (a) and (b) of the Revised Constitution and Bylaws of the Devils Lake Sioux Tribe approved July 14, 1961. A residency of 30 days prior to the election is required to vote for the candidates of that district. When this residency has not been met, the voter shall return to his former district and cast his vote for the candidates of that district.

(d) Prisoners being held in the tribal jail who are eligible for and wish to vote may vote when presenting themselves for registration at the polls providing they have the concurrence of the judicial and law enforcement system.

Sec. 12. Absentee Ballots and Write-in Votes:

(a) Absentee balloting and write-in votes will not be permitted for the 1993 Tribal Election but will be allowed in subsequent elections in accordance with the restrictions in this section.

(b) Tribal member who met the requirements under Section 15 may vote by absentee ballot due to temporary absence from the reservation, illness, or physical disability. Upon his or her written request, the election board shall give or mail absentee ballots to resident members who meet the criteria under Section 15. A record shall be kept of those from whom request are received, date they were received and the date the ballot was given or sent through the United States Postal Service.

- (c) Accompanying the absentee ballot shall be:
- (1) An inner envelope bearing on the outside, the words "Absentee Ballot",
 - (2) instructions for completion of the absentee ballot,
 - (3) A preaddressed outer envelope, imprinted on the back with a certificate as follows:

I, _____, hereby certify that I am a resident voter pursuant to Section 15 of this ordinance; a member of the Devils Lake Sioux Tribe; that I will be 18 years of age or over on the third Tuesday in April; and that I cannot appear at the polling place on the reservation on the date of the election because: _____

voters signature

(d) Instructions shall be given for each absentee ballot. The absentee voter shall mark the ballot and the ballot shall then be folded so as to conceal the marking and be placed in the envelope marked "Absentee Ballot" and the envelope sealed. The voter shall then place the sealed envelope marked "Absentee Ballot" in the outer envelope, seal it and complete the certificate and mail it. The preaddressed outer envelope shall be directed to the Chairman of the Election Board. Absentee ballots must be received by the Chairman of the Election Board not later than the close of the polls or as otherwise posted in the election notice.

(e) The Election Board shall make and keep a record of ballots mailed, to whom mailed, the date of mailing, the address on the envelope, the date of the return of the ballot, and from whom received. After duly recording the receipt date of absentee ballots received on time, the Election Board shall open the outer envelopes, secure them and place the unmarked inner envelopes containing ballots in a separate box or large manila envelope for each district to be transported to each polling place. The boxes or manila envelopes must be opened and the contents placed in the ballot box for counting along with the other ballots received while the polls were open.

Sec. 13. Watchers: Only one watcher will be permitted for a candidate when named by a candidate for office to the District Election Committee or Devils Lake Sioux Tribal Election Board. The watcher may challenge any vote that may be cast by a voter at the polls. Where a ballot is challenged, the election judges shall make an immediate ruling on the eligibility of the voter to cast his ballot. The decision by the election judges shall be final.

Sec. 14. Loitering: There shall be no loitering at the polls. No campaigning by any person within 100 yards of the polls. Any person under the influence of an intoxicant as determined by law enforcement personnel present will be escorted to the nearest facility.

Sec. 15. Resident Defined: A qualified resident voter must have resided on the reservation for a period of one year immediately prior to a given election, Article V., Section 1 (b) of the Constitution and Bylaws of the Tribe. The resident voter must reside in the district where he is voting at least 30 days prior to the election (Sec. 11, Registration). Resident shall mean maintaining a home at a certain place and leaving only temporarily for purpose of employment, schooling.

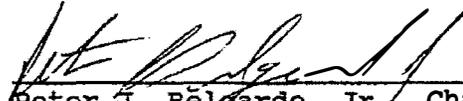
Sec. 16. Hold-Over Council Member: Any officer or representative not having been duly certified as elected or refuses to take office and/or who may be incapacitated, may be withheld from taking office until the matter is settled in the Devils Lake Sioux Tribal Court. The hold-over member or officer of the Tribal Council presently in office shall be continued in office until such time as the officer or representative has been certified and sworn into office.

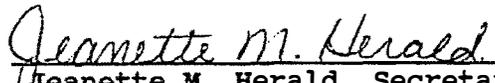
Sec. 17. Unlawful Influence of Votes: Any Indian who receives or gives money or goods in such a manner so as to influence a voter will be subject to the penalties set forth in Sec. 9.6 of the Devils Lake Sioux Tribe Code of Justice.

Sec. 18. Ordinance: This ordinance is enacted so as to establish procedures to insure fair elections. Technicalities shall not be used to interfere, delay or block elections, or to cause confusion, or the loss of confidence in the election system. Any ordinance or election instructions inconsistent herewith are hereby repealed.

C E R T I F I C A T I O N

I, the undersigned, as Secretary of the Devils Lake Sioux Tribal Council hereby certify that the Tribal Council is composed of six (6) members of whom five (5) were present, constituting a quorum for a meeting which was duly called and convened this 7th day of April 7, 1993, and adopted this resolution by an affirmative vote of three (3) members, none (0) opposing, one (1) absent. (Chairman votes in case of tie).


Peter J. Belgarde, Jr., Chairman
Devils Lake Sioux Tribe


Jeanette M. Herald, Secretary
Devils Lake Sioux Tribe

DEVILS LAKE SIOUX TRIBE
NOTICE OF INTENT TO RUN FOR OFFICE

Date _____ 19__

1. Name: _____
2. Address: _____
3. Date of Birth: _____ 4. Age: _____
5. Place of Birth: _____
6. Are you an enrolled member of the Devils Lake Sioux Tribe?
YES _____ NO _____
7. Name the community in which you now live: _____
8. How long have you lived in that community? _____
9. How long have you lived on the Devils Lake Sioux Reservation?
Years _____ Months _____
10. Candidate for the office of _____

I hereby certify that the foregoing statements are true and correct and are made for the purpose of establishing my qualifications for tribal office. If any material statement made in this notice of candidate is false, it shall be grounds for disqualification as a candidate for tribal office, or if elected, it shall constitute grounds for my removal from office. I further authorize the Devils Lake Sioux Tribal Election Board to conduct a background investigation through any state or federal agency.

Date Filed: _____ Signature: _____
Candidate

Action taken for approval/disapproval on ____ day of _____, 19__

Chairman, Election Board
Devils Lake Sioux Tribe

DEVILS LAKE SIOUX TRIBE

ELECTION RESULTS

DATE

FORT TOTTEN DISTRICT

TOTAL VOTES

CANDIDATE #1

CANDIDATE #2

MISSION DISTRICT

CANDIDATE #1

CANDIDATE #2

SECRETARY-TREASURER

CANDIDATE #1

CANDIDATE #2

CERTIFIED ON _____, 19____, BY THE DEVILS LAKE SIOUX TRIBAL ELECTION BOARD.

CROWHILL DISTRICT

FORT TOTTEN DISTRICT

DEVILS LAKE SIOUX TRIBE
ELECTION BOARD CERTIFICATION
PRIMARY/GENERAL ELECTION

We, the members of the Devils Lake Sioux Tribal Election Board hereby certify that the above tally is correct and accurate count of votes as shown by the District Election Board certification in the General Election held on _____, for the Devils Lake Sioux Tribe.

Chairman, Election Board

Member, Election Board

Member, Election Board

Member, Election Board

DEVILS LAKE SIOUX TRIBE

_____ REPRESENTATIVE

DATE

TALLY SHEET

1. _____	TOTAL _____
2. _____	TOTAL _____
3. _____	TOTAL _____
4. _____	TOTAL _____
5. _____	TOTAL _____
	GRAND TOTAL _____

DISTRICT ELECTION JUDGE

WITNESS

WITNESS

OATH OF OFFICE

"I, _____, DO SOLEMNLY SWEAR THAT I WILL PERFORM THE DUTIES OF THE DEVILS LAKE SIOUX TRIBAL ELECTION BOARD (AND/OR DISTRICT ELECTION COMMITTEE), ACCORDING TO THE CONSTITUTION AND BYLAWS AND THIS ELECTION ORDINANCE TO THE BEST OF MY ABILITY AND THAT I WILL ENDEAVOR TO INSURE A FAIR ELECTION."

DATE: _____

SWORN BY _____
TRIBAL OFFICIAL

GUIDELINES FOR THE 1993 ELECTION

This is for the record of the 1993 Devils Lake Sioux Tribal Election made this 7th day of April, 1993. The Devils Lake Sioux Election Ordinance was previously conducted pursuant to Tribal Ordinance No. A05-70-2, enacted on March 31, 1970, rescinded by A05-76-174, on May 3, 1976. The Devils Lake Sioux Tribal Constitution was amended in 1981 and 1991. These amendments changed the procedure on how we conducted the tribal elections. However, the ordinance was not changed to reflect the changes made in the constitution. This was discovered by the 1993 election board in the process of candidates filing for office. Two instances occurred, one was the time frame for receiving notices of intent to run and to who received them and qualifying candidates.

The election board received one notice of intent to run from a candidate that had originally been turned in on March 12, 1993, but whose name did not appear on the eligible list until later. Another candidate whose name did appear on the list of eligibles was later determined to be ineligible in accordance with the amendment to the constitution that was effective on May 4, 1981. That candidate was delivered a written notice on April 2, 1993, declaring his ineligibility for candidacy and given until noon on April 6, 1993, to provide additional information that would allow the election board to change its decision. No information was received by the election board, although there were inquiries from one of the congressional offices on this subject. The Election Board can now post a new list of eligible candidates if they have not already done so.