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NORTHERN CHEYENNE TRIBE

**REVISED TRIBAL ELECTION ORDINANCE
(As Amended)**

ORD 2(98)

Final

32

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Section 1. DEFINITIONS. When used in this Ordinance, the following terms shall have the following meanings:

a. The term "**Ordinance**" means this Revised Tribal Election Ordinance, including any amendments hereof.

b. The terms "**section**," "**subsection**" and "**paragraph**" mean respectively a section, subsection, and paragraph of this Ordinance.

c. The term "**all elections**" means any and all Tribal elections for President, Vice President, Trial Judge(s) of the Tribal Court, or a Tribal Council seat(s), whether a primary or general election, and whether held in connection with a regular or special election.

d. The term "**regular election**" means:

- the Tribal general election for President, Vice President, and all ten Tribal Council seats, held on November 5, 1996; and the Tribal general election for President, Vice President, all Trial Judges of the Tribal Court, and five Tribal Council seats, held on the date set for regular Congressional elections every four years thereafter;
- the Tribal general election for five Tribal Council seats held on the date set for regular Congressional elections in 1998 and on the date set for regular Congressional elections every four years thereafter; and
- the Tribal primary election preceding each of the above general elections.

e. The term "**special election**" means:

- a Tribal general election to fill a vacancy in the office of President, Vice President, Trial Judge of the Tribal Court, or a Tribal Council seat, arising from a cause other than the expiration of the term of office (such as death, resignation, removal, or similar cause); and
- the Tribal primary election preceding such general election.

f. The term "**general election**" means any Tribal election for President, Vice President, Trial Judge(s) of the Tribal Court, and/or a Tribal Council seat(s), among the final candidates who have been chosen in a preceding primary election, or who have become final candidates without a primary in those circumstances where no primary is required under this Ordinance.

g. The term "**primary election**" means any Tribal election to select the final candidates for President, Vice President, Trial Judge(s) of the Tribal Court, and/or a Tribal Council seat(s) to run in a general election.

h. The term **"qualified voter"** means an enrolled member of the Tribe qualified to vote in a Tribal election (whether a primary or general election, or a regular or special election), because he/she is 18 years of age or older on the date of the particular election.

i. The term **"District Voters List"** means the list of qualified voters in a Reservation District prepared by the Voters Committee in preparation for any Tribal election, as provided in section 10.b.

j. The term **"Voter Registration Certificate"** means the document a qualified voter must file at his/her District polling place in order to secure a ballot as provided in section 11 and, in the case of an absentee voter, must deliver to the Tribal Secretary to secure an absentee ballot as provided in section 15.c.

k. The term **"Tribal Council seats allocated among the Districts"** means the 10 Tribal Council seats distributed to the Reservation Districts, including the five seats allocated one per District and the Five Additional Council Seats, as described in section 2.b and .c.

l. The term **"Five Additional Council Seats"** means the five Tribal Council seats allocated among the Reservation Districts in accordance with the percentage of the Tribal membership associated with each District, as provided in sections 2.c and 3.

m. The term **"Membership List"** means the list of the entire Tribal membership showing the District with which each member is associated, prepared by the Voters Committee in preparation for the regular election of 1996 and subsequently in preparation for each regular election held every four years thereafter, for use in allocating the Five Additional Council Seats among the Reservation Districts as provided in section 3.

n. The term **"Declaration of Candidacy"** means the document which, along with any applicable filing fee, must be filed with the Tribal Secretary in order to run for President, Vice President or Tribal Judge (as provided in section 7.a) or a Tribal Council seat (as provided in section 8.a).

o. The term **"Voters Committee"** means the standing committee of the Tribe appointed and functioning as provided in section 20.

p. The term **"District Election Board"** means the board consisting of the Election Judge and Election Clerks of a Reservation District, appointed and functioning as provided in sections 17.a - .d.

q. The term **"Reservation-Wide Election Board"** means the board consisting of the five Election Judges from the Reservation Districts, functioning as provided in section 17.e.

r. The term **"Certificate of District Election Results"** means the document executed

by the District Election Board to certify election results in the District, as provided in section 16.a.

s. The term "**Certificate of Reservation-Wide Election Results**" means the document executed by the Reservation-Wide Election Board to certify the Reservation-wide election results, as provided in section 16.b.

t. The term "**Tribal Secretary**" means the Tribal Secretary or, in his/her absence, a staff person in the office of the Tribal Secretary who has been designated in writing by the Tribal Secretary to perform specific ministerial functions assigned to the Tribal Secretary by any provision of this Ordinance.

Section 2. COMPOSITION OF TRIBAL COUNCIL. The Tribal Council shall consist of eleven members holding the following seats:

a. **Vice President's Seat.** One at-large seat held by the Vice President except when the Vice President is presiding over the Tribal Council due to the absence of the President.

b. **Five Seats -- Allocated One Per District.** Five seats allocated one each to the Reservation Districts of Ashland, Birney, Busby, Lane Deer, and Muddy.

c. **Five Additional Seats Allocated Among Districts.** Five seats allocated among the five Reservation Districts ("Five Additional Council Seats") in accordance with the percentage of the Tribal membership associated with each District. The allocation of these five seats shall be determined for the regular election of 1996, and redetermined for the regular election held every four years thereafter. Such allocations shall be made as provided in section 3.

d. **Election Process.** The members of the Tribal Council holding the ten seats allocated among the Reservation Districts shall be selected through District primary elections followed by a general election conducted at-large, as provided in section 8. The Vice President holding the at-large seat shall be selected through a primary election followed by a general election, both conducted at-large as provided in section 7.

e. **Terms of Office.** The members of the Tribal Council holding the ten seats allocated among the Reservation Districts shall serve for four years in staggered terms, provided that in the regular election of 1996 five members of the Tribal Council shall be selected for two-year terms as set forth in section 8.e.

Section 3. ALLOCATION FORMULA FOR THE FIVE ADDITIONAL TRIBAL COUNCIL SEATS. The Five Additional Council Seats to be allocated among the five Reservation Districts under section 2.c shall be allocated as follows:

a. **Membership List.** In preparation for the regular election of 1996, and thereafter in preparation for each regular election every four years thereafter, the Voters Committee shall prepare

a list of the entire Tribal membership ("Membership List") which lists the member's name and the district with which such member is associated. The Membership List shall be prepared in accordance with the following standards and procedures:

1. **Voters Committee Meetings and Source Materials.** In order to prepare the Membership List, the Voters Committee shall meet as frequently as the Committee deems necessary. Minutes of all meetings shall be kept. In preparing the Membership List, the Voters Committee may use such Tribal, BIA, historical, anecdotal, and other material, information and resources, and may hear from or consult such persons, as the Committee considers appropriate.

2. **Association With District.** For purposes of the Membership List, the Reservation District with which each Tribal member is associated shall be determined as follows:

- A Tribal member who customarily and actually resides in one Reservation District during the entire 90-day period preceding the date on which the Membership List is finalized (as described in paragraph 3 below), shall be deemed associated with that District.
- A Tribal member -- whether resident on or off the Reservation -- who has not customarily and actually resided in one Reservation District during the 90-day period preceding the date on which the Membership List is finalized, shall be considered associated with the Reservation District which, in the judgment of the Voters Committee, is the District of the member's most representative customary and actual residence or, failing such a residence, the District in which the member's family roots lie.

3. **Finalization Date.** For the regular election of 1996, by July 19, 1996 the Voters Committee shall finalize the Membership List, and the allocation of the Five Additional Council Seats under subsection b below. For the regular election of 2000 and the regular election every four years thereafter, these matters shall be finalized on or about 90 days before the date set for the primary election. The Voters Committee shall have authority, in connection with such 1996 and quadrennial elections only, to review, reconsider or adjust such determinations if it will not unduly disrupt such forthcoming regular elections.

b. **Allocation of Five Additional Council Seats.** Contemporaneous with the finalization of the Membership List, the Voters Committee shall determine the allocation of the Five Additional Council Seats among the five Reservation Districts as provided in this subsection b:

1. **District Figures.** For each Reservation District the Voters Committee shall count the total number of Tribal members listed on the Membership List as associated with the District. Using these figures, the Voters Committee shall calculate the percentage of the Tribal membership associated with each District ("District Percentage"). Each District Percentage shall then be multiplied by five (the product is referred to hereinafter as the "District Product"), and on

the basis of all District Products, the Five Additional Council Seats shall be allocated among the five Districts in two steps as provided in paragraphs 2 and 3 below.

2. **Step One Allocations.** First, each Reservation District with a District Product of 1.0 or greater shall be allocated that number of the Five Additional Council Seats which equals the whole number portion of the District Product. For example: a District with a District Product of 1.3, shall receive a step one allocation of one out of the Five Additional Council Seats; and a District with a District Product of 2.7 shall receive a step one allocation of two out of the Five Additional Council Seats.

3. **Step Two Allocations.** After making the whole number allocations in step one, the unallocated balance of the Five Additional Council Seats shall be allocated among the Reservation Districts in descending order of the fractional portions of the District Products. For example, if three of the Five Additional Council Seats have been allocated in step one, and the fractional portions of the District Products for the five Districts are .65, .45, .43, .31 and .16, the two unallocated seats from the Five Additional Council Seats would be allocated to the Districts having the two highest fractional portions -- .65 and .45. In the event the fractional portion of the District Product is the same for two or more Districts, the tie (should it need to be resolved) would be resolved by the drawing of lots by the Voters Committee.

4. **Sample Allocations.** To further illustrate the above allocation principles, three hypothetical examples are shown in the attached Exhibit B.

5. **Certificate.** Upon determining the step one and step two allocations, the Voters Committee shall prepare and sign a Certificate of Council Seat Allocation substantially in the form attached hereto as Exhibit C. The original Certificate of Council Seat Allocation shall be delivered to the Tribal Secretary, who shall retain such original and promptly provide copies thereof to the President, Vice President, and each member of the Tribal Council and post copies thereof at three public places in each Reservation District.

c. **Finality.** The finalized Membership List and allocation of the Five Additional Council Seats determined by the Voters Committee in 1996 and for each quadrennial regular election thereafter, shall be final and not subject to review by any court or other body except on the ground of (a) gross irregularity through the disregard of readily available and clearly reliable information in the preparation of the Membership List, or (b) clear arithmetic error, (c) which caused a clearly erroneous allocation of the Five Additional Council Seats.

Section 4. PRESIDENT, VICE PRESIDENT AND TRIAL JUDGES. The President, Vice President and Trial Judges of the Tribal Court shall each be selected through a primary election followed by a general election, both conducted at-large as provided in section 7. The President, Vice President and Trial Judges shall each serve for four-year terms, provided that the first set of Trial Judges will be elected in approximately late 1997 as provided in section 7.f and therefore will serve a three-year term approximately.

Section 5. QUALIFICATIONS FOR OFFICE.

a. **Tribal Council.** To run as a listed or (where permitted) write-in candidate for a Tribal Council seat allocated to a District, one must be:

- an enrolled member of the Tribe;
- at least 21 years of age; and
- domiciled within that District from the date six months before the date set for the primary election through the date on which the general election is held.

If elected, one must remain domiciled in the District throughout the term of office, and failure to do so shall be ground for removal from office in accordance with applicable Tribal removal procedures.

b. **President and Vice President.** To run as a listed or (where permitted) write-in candidate for President or Vice President, one must be:

- an enrolled member by blood of the Tribe;
- at least 30 years of age on the date of the general election; and
- domiciled on the Reservation from the date one year before the date set for the primary election through the date on which the general election is held.

If elected, one must remain domiciled on the Reservation throughout the term of office, and failure to do so shall be ground for removal from office in accordance with applicable Tribal removal procedures.

c. **Trial Judges.** To run as a listed or (where permitted) write-in candidate for Trial Judge of the Tribal Court, one must have the following qualifications (as set forth in Chapter 8 of the Separation of Powers Ordinance):

- enrolled member of the Tribe;
- at least 30 years of age on the date of the general election;
- high school graduate or the holder of a G.E.D. certificate or its equivalent;
- never been convicted of a felony in any Tribal, federal or state court, whether after a plea of guilty or nolo contendere, a trial or other procedure (the foregoing shall not include convictions which have been vacated);

- within the 10-year period preceding the date set for the primary election through the date on which the general election is held, not been convicted of a misdemeanor involving moral turpitude in any tribal, federal or state court, whether after a plea of guilty or nolo contendere, a trial or other procedure (the foregoing shall not include convictions which have been vacated);
- within the three-year period preceding the date set for the primary election through the date on which the general election is held, not been removed as a Trial Judge or Appellate Judge of the Tribal Court on a complaint for removal;
- will maintain his or her domicile on the Reservation throughout the term of office;
- at the time of filing the Declaration of Candidacy, is not a plaintiff or defendant in any civil or criminal action pending in the Tribal Court;
- familiar with the Tribal Constitution, the Tribal Law & Order Code, civil and criminal procedures, the Indian Civil Rights Act, the Indian Child Welfare Act, and federal Indian law generally;
- able and competent to: conduct efficient and organized Trial Court proceedings; research and apply applicable law; timely decide or otherwise resolve disputes; and set forth clear and reasoned decisions and orders in writing; and
- able to deal effectively with people in highly emotional, adversarial and confrontational situations.

If elected, failure to maintain certain of the foregoing qualifications throughout the term of office may be ground for automatic removal specified in section 17.2 of the Separation of Powers Ordinance.

d. Definition of "Domicile." When used in this section 5, the term "domicile" means the residence in which a person customarily and actually resides during the applicable time period.

Section 6. RESERVATION DISTRICTS. The five Reservation Districts shall be the districts of Ashland, Birney, Busby, Lane Deer and Muddy. The current boundaries of these Districts are shown on the map attached hereto as Exhibit A. As provided in Article III, Section 2(d) of the Tribal Constitution and Bylaws, the Tribal Council shall retain power to change the boundaries of the Districts, provided that such a change which is made after the Voters Committee, in connection with a forthcoming scheduled election, has finalized the Membership List or District Voters Lists under sections 3.a or 10.b, shall not be effective until after the holding of the general election.

Section 7. ELECTION OF PRESIDENT, VICE PRESIDENT AND TRIAL JUDGES. Candidates for President, Vice President, and Trial Judge of the Tribal Court shall be determined,

and the President, Vice President and all Trial Judges shall be elected in at-large general elections, as follows:

a. **Declaration of Candidacy; Filing Fee.** At least 30 days before the date set for the primary election under subsection c below, a person desiring to run for President, Vice President or Trial Judge shall in person file with the Tribal Secretary a Declaration of Candidacy which certifies the intent to run for the office and the possession of all qualifications for the office, and shall simultaneously pay to the Tribal Secretary a non-refundable \$200 filing fee by cashier's or certified check or money order. The Tribal Secretary shall in writing acknowledge receipt (including the date and time of receipt) of each properly filed Declaration of Candidacy and accompanying filing fee on the filed Declaration of Candidacy, retain the original thereof, and provide a copy to the candidate. The Declaration of Candidacy for the office of President shall be substantially in the form attached hereto as Exhibit D. The Declaration of Candidacy for the office of Vice President shall be substantially in the form attached hereto as Exhibit E. The Declaration of Candidacy for the office of Trial Judge shall be substantially in the form attached hereto as Exhibit F. For each regular election for President, Vice President or Trial Judge after the 1996 election, the Tribal Council may adjust the filing fee to account for inflation or other factors. Any person qualifying for a general election for President, Vice President or Trial Judge by write-in vote in a primary election shall promptly file a Declaration of Candidacy and pay the filing fee.

b. **Review of Candidate Qualifications by Voters Committee.** In timely and expeditious fashion, the Voters Committee shall review all filed Declarations of Candidacy to determine if there is reason to believe that the candidate does not possess the qualifications for office specified in section 5. In reviewing the qualifications of a candidate for Trial Judge, the Voters Committee shall carefully consider the President's written certification that the candidate is qualified required by section 8.1 of the Separation of Powers Ordinance. If the Voters Committee determines that such qualifications appear to be lacking, or that additional information is needed relevant to the candidate's qualifications, the Voters Committee shall in writing so advise the candidate and accord the candidate a reasonable and timely opportunity to present relevant information in person and/or in writing, in which case the candidate shall be obliged to present such information. If the Voters Committee thereafter determines that the candidate does not possess the requisite qualifications for office, it shall set forth that determination and the grounds therefor in writing, immediately provide copies thereof to the candidate and the Tribal Secretary, and thereafter the Declaration of Candidacy shall be considered void and the candidacy terminated. In all elections, a person claiming that a candidate does not possess the qualifications for office set forth in section 5 shall be obliged to make all reasonable efforts to present the claim to the Voters Committee for disposition (as provided above) as promptly as possible prior to the forthcoming primary or general election. In making determinations hereunder, the Voters Committee may rely on such data and information as it considers reasonably relevant and reliable. All such determinations shall be reflected in Voters Committee minutes.

c. **Primary.** If more than two qualified persons file to run for President or for Vice President, or if the number of qualified persons filing to run for Trial Judge is more than twice the

number of open Trial Judge seats, there shall be a primary election among such persons conducted at large. The primary shall be held on a date set by the Council which shall be at least 30 days before the general election. Write-in voting shall be permitted in the primary. The two top vote-getters in the primary for President and the two top vote-getters in the primary for Vice President shall be the only candidates for President and Vice President, respectively, in the general election, provided that if more than two persons tie for top vote-getter, or if there is one top vote-getter and a tie for second place, all such persons shall be the candidates. In descending order of votes received, the top vote-getters in the primary for Trial Judge shall be included in the general election as the only candidates for Trial Judge until the number of such included candidates equals twice the number of open Trial Judge positions, provided that if there is a tie for lowest vote-getter among such persons, the tied persons shall also be included among the candidates. Write-in voting shall not be permitted in such general election. If a candidate dies, withdraws or is disqualified prior to the general election, the candidates shall be redetermined on the basis of the primary results without considering votes cast for the former candidate, provided that if this yields less than two candidates, write-in voting shall be permitted in such general election.

d. **No Primary.** If no more than two qualified persons file to run for President or for Vice President, or if the number of qualified persons filing to run for Trial Judge is no more than twice the number of open Trial Judge seats, there shall be no primary election for such office. The person(s) who filed for such office shall be the only candidate(s) for such office in the general election. Write-in voting shall be permitted in such general election.

e. **Regular Election.** On Tuesday, November 5, 1996, and on the date set for regular Congressional elections every four years thereafter, there shall be regular elections for President, Vice President, and all Trial Judges, and each winning candidate shall be elected for a four-year term, provided that, the foregoing notwithstanding, the first election for Trial Judges shall be held as provided in subsection f below.

f. **First Election for Trial Judges.** The first primary and general election for all Trial Judges is projected to be held in approximately late 1997, after the Tribal Council adopts a Separation of Powers Ordinance. The Trial Judges elected in that election shall serve until the regular election in the year 2000. The Tribal Council may elect to hold this first primary and general election contemporaneous with and on the same schedule as the primary and general election to fill the current vacancy in a Lame Deer District Tribal Council seat created by the resignation of James Crazymlule, notwithstanding any contrary provision of this Ordinance regarding election schedules.

g. **Winners.** In every regular and special election for President, Vice President and/or Trial Judge, the top vote-getter among the candidates for President and the top vote-getter among the candidates for Vice President shall be considered elected as President and Vice President, respectively; and the top vote-getter(s) among the candidates for open Trial Judge seat(s) shall, in descending order of votes received, be considered elected to such seat(s) until the open seat(s) has thereby been filled.

Section 8. ELECTION OF TRIBAL COUNCIL. Candidates for the ten Tribal Council seats allocated among the Reservation Districts shall be determined, and the Council members shall be elected in at-large general elections, as follows:

a. **Declaration of Candidacy; Filing Fee.** At least 30 days before the date set for the primary election under subsection c below, a person desiring to run for a Tribal Council seat allocated to a District shall in person file with the Tribal Secretary a Declaration of Candidacy substantially in the form attached hereto as Exhibit G, which certifies the intent to run and the possession of all qualifications for the office, and shall simultaneously pay to the Tribal Secretary a non-refundable \$50 filing fee by cashier's or certified check or money order. The Tribal Secretary shall in writing acknowledge receipt (including the date and time of receipt) of each properly filed Declaration of Candidacy and accompanying filing fee on the filed Declaration of Candidacy, retain the original thereof, and provide a copy to the candidate. For each regular election for the Tribal Council after the 1996 election, the Tribal Council may adjust the filing fee to account for inflation or other factors. Any person qualifying for a general election for the Tribal Council by write-in vote in a primary election shall promptly file a Declaration of Candidacy and pay the filing fee.

b. **Review of Candidate Qualifications by Voters Committee.** The Voters Committee shall review all filed Declarations of Candidacy as provided in section 7.b.

c. **Primary.** If the number of qualified persons filing to run for the Tribal Council from a District is more than twice the number of open Council seats allocated to the District, there shall be a primary election among such persons conducted within the District. The primary shall be held on a date set by the Tribal Council which shall be at least 30 days before the general election. Only the voters of the District may vote in the primary. Write-in voting shall be permitted in the primary. In descending order of votes received, the top vote-getters in the District primary shall be included in the general election as the only candidates for the open seat(s) in the District, until the number of such included candidates equals twice the number of such open seat(s); provided that if there is a tie for lowest vote-getter among such persons, the tied persons shall also be included among the candidates. Write-in voting shall not be permitted in such general election. If a candidate dies, withdraws or is disqualified prior to the general election, the candidates for the open seat(s) in the District shall be redetermined on the basis of the primary results without considering votes cast for the former candidate, provided that if this yields a number of candidates which is less than twice the number of such open seat(s), write-in voting shall be permitted in such general election.

d. **No Primary.** If the number of qualified persons filing to run for the Tribal Council from a District is no more than twice the number of open Council seats allocated to the District, there shall be no primary election for such seat(s). The person(s) who filed for such seat(s) shall be the only candidate(s) for such seat(s) in the general election. Write-in voting shall be permitted in such general election.

e. **Regular Election of 1996.** On Tuesday, November 5, 1996, there shall be a regular election to fill the ten Tribal Council seats allocated among the Districts. The top vote-getter among

the candidates for the seat(s) allocated to a District shall be considered elected to the seat allocated to the District under section 2.b and shall serve a four-year term. The other five successful Council candidates in that election shall be considered elected to the seats allocated under section 2.c and shall each serve a two-year term.

f. **Regular Election of 1998 and Thereafter.** On the date set for regular Congressional elections in 1998, and on the comparable date every two years thereafter, there shall be a regular election to fill five open Tribal Council seats, each for a four-year term.

g. **Winners.** In every regular and special election for Tribal Council, the top vote-getter(s) among the candidates for open Council seat(s) allocated to a District shall, in descending order of votes received, be considered elected to such seat(s) until the open seat(s) have thereby been filled.

Section 9. ELECTION NOTICES.

a. **Notice Soliciting Candidates.** At least 60 days before the date set for any primary election, the Tribal Secretary shall post at three public places in each Reservation District a Notice Soliciting Candidates which advises of the forthcoming primary and general elections and solicits the filing of Declarations of Candidacy. The Notice Soliciting Candidates shall be substantially in the form attached hereto as Exhibit H. In the case of a primary election which precedes a special election to fill a vacancy, the Tribal Council shall have discretion to shorten such 60-day period or dispense with the posting of such Notice Soliciting Candidates, in order to facilitate compliance with the requirement set forth in section 19.c (based on Article VII, Section 4(c) of the Tribal Constitution and Bylaws) that a general election to fill a vacancy must occur no later than 90 days after the occurrence of the vacancy.

b. **Notice of Election.** At least 21 days before the date set for any election, the Tribal Secretary shall post a Notice of Election, including a list of all persons running in the Election, at three public places in each Reservation District. For primary elections, the Notice of Election shall be substantially in the form attached hereto as Exhibit I. For general elections, the Notice of Election shall be substantially in the form attached hereto as Exhibit J.

Section 10. VOTERS AND VOTERS LISTS.

a. **Qualified Voters.** In all elections, all enrolled members of the Northern Cheyenne Tribe who will be 18 years of age or older on the date of the election shall be qualified to vote. In order to exercise his/her right to vote, a qualified voter must:

- register and cast a ballot at the polling place of his/her District, as provided in sections 11-13; or
- if qualified therefor, apply for and obtain an absentee ballot and cast that ballot, as

provided in section 15.

b. **District Voters Lists.** In preparation for all elections, for each Reservation District the Voters Committee shall prepare a list of all qualified voters in the District ("District Voters List"). The District Voters List will cover both the forthcoming primary and general elections. If a person will be less than 18 years old on the day of the primary election, but will reach the age of 18 by the day of the general election, he/she will not be eligible to vote in the primary election, but will be eligible to vote in the general election, and a notation to that effect shall be made opposite the person's name on the District Voters List. Each District Voters List shall be prepared in accordance with the following standards and procedures:

1. **Voters Committee Meetings and Source Materials.** In order to prepare each District Voters List, the Voters Committee shall meet as frequently as the Committee deems necessary. Minutes of all meetings shall be kept. In preparing the District Voters List, the Voters Committee may use such Tribal, BIA, historical, anecdotal, and other material, information, and resources, and may hear from or consult such persons, as the Committee considers appropriate.

2. **Voting District.** For purposes of the District Voters Lists, the Reservation District in which a Tribal member shall vote shall be determined as follows:

- A Tribal member who customarily and actually resides in one Reservation District during the entire 90-day period preceding the date set for the primary or general election (as the case may be) shall vote in that District.
- A Tribal member -- whether resident on or off the Reservation -- who has not customarily and actually resided in one Reservation District during the 90-day period preceding the date set for the particular election shall vote in the Reservation District which, in the judgment of the Voters Committee, is the District of the member's most representative customary and actual residence or, failing such a residence, the District in which the member's family roots lie.

3. **Posting and Refinement of District Voting Lists.** For the regular election of 1996, by July 26, 1996 the Voters Committee shall prepare the five District Voters Lists and post all five Lists in three public places in each Reservation District. For all other elections, the Voters Committee shall prepare and so post the District Voters Lists no later than 3 mo 90 days before the date set for the primary election (provided that in the case of a special election to fill a vacancy, the Voters Committee shall shorten this 90-day period in order to facilitate compliance with the requirement set forth in section 17.c (based on Article VII, Section 4(c) of the Tribal Constitution and Bylaws) that a general election to fill a vacancy must occur no later than 90 days after the occurrence of the vacancy). After such initial posting of the District Voters Lists, through the holding of the primary and general elections, the Voters Committee shall review and, as appropriate, revise the District Voters Lists in light of any reasonably relevant and reliable data or information brought to its attention, including claims that any Tribal member should or should not be placed on

a District Voters List or should be transferred from one District Voters List to another. A person so claiming shall be obliged to make all reasonable efforts to present the claim to the Voters Committee for disposition prior to the forthcoming primary or general election, as the case may be. Each District Voters List, as finally determined by the Voters Committee, shall be final and not subject to review by any court or other body except on the ground of gross irregularity through the disregard of readily available and clearly reliable information in the preparation of the District Voters List, which caused the improper inclusion or exclusion of a qualified voter on or from a District Voters List, and which has, or in all likelihood could have, affected the results of the election. The determinations on all such claims shall be reflected in Voters Committee minutes. On a weekly basis, through the holding of the primary and general elections, the Voters Committee shall replace the five District Voters Lists posted in each District with the most current versions of such Lists.

Section 11. REGISTRATION AT POLLS. In all elections, to obtain a ballot a qualified voter shall register at the polling place in his/her District on the day of the election, unless the voter qualifies for and obtains an absentee ballot under section 15. To register at the District polling place, a voter must request, sign and file at the polling place a Voter Registration Certificate. For primary elections, the Voter Registration Certificate shall be substantially in the form attached hereto as Exhibit K. For general elections, the Voter Registration Certificate shall be substantially in the form attached hereto as Exhibit L. Each Voter Registration Certificate shall have a ballot attached to it. If the voter is unable to sign his/her name on the Voter Registration Certificate, the voter may instead make his/her mark or fingerprint on the Certificate in the presence of two witnesses. When the signed Voter Registration Certificate is filed, it shall be numbered in the upper right-hand corner and the ballot shall be detached and delivered to the voter.

Section 12. BALLOTS. In all elections, each qualified voter properly registering under section 11 shall be provided with a ballot which he/she may cast at the election. For primary elections, the ballot shall be substantially in the form attached hereto as Exhibit M. For general elections, the ballot shall be substantially in the form attached hereto as Exhibit N. All Elections shall be conducted by secret ballot and no ballot may be mutilated, marked or packaged in a manner which enables the identification of the person who cast the ballot.

Section 13. CASTING THE BALLOT. The following rules shall be observed in all elections:

a. **Assistance from District Election Board.** If two District Election Board members are satisfied that a qualified voter is unable to mark or cast the ballot because he/she cannot read or write or is otherwise physically disabled, they may assist such person in preparing and casting his/her ballot.

b. **Voting on Candidates.** Each voter shall vote by making an "X" or other clear mark on the ballot in the square adjoining the name of the candidate. If the voter indicates his/her vote on the ballot in some other clear way (e.g., by circling a candidate's name) that vote shall be given effect. If write-in voting is permitted, the voter may vote for a write-in candidate by writing the name of such candidate in the space provided on the ballot.

c. **Voting on Propositions.** If the ballot calls for a vote on a proposition, question or other matter, the voter shall vote thereon by making an "X" or other clear mark on the ballot in the square provided.

d. **Deposit in Ballot Box.** After marking the ballot, the voter shall place it in the ballot box.

Section 14. BALLOT BOXES. The Tribal Secretary shall be the custodian of all ballot boxes when not in use. In all elections, on the day of the election the Tribal Secretary shall arrange to have a ballot box delivered to each District polling place before the polls open, after placing in each District ballot box all absentee ballots received from voters of that District under section 15.

Section 15. ABSENTEE VOTING. In all elections, a qualified voter may vote by absentee ballot in the following circumstances, in accordance with the following procedures:

a. **Grounds.** A qualified voter may vote by absentee ballot if the voter expects that, on the day of the election, he/she:

- will not be physically present on the Reservation for any reason;
- will be too ill to vote in person; or
- will be physically incapable of voting in person.

b. **Application.** To obtain an absentee ballot, a voter must submit to the Tribal Secretary a notarized, written application in which the applicant certifies that he/she is entitled to an absentee ballot on one or more of the grounds described in subsection a above. For primary elections, the application shall be substantially in the form attached hereto as Exhibit O. For general elections, the application shall be substantially in the form attached hereto as Exhibit P. The submitted application must be physically received in the Tribal Secretary's office by 4:30 p.m. of the last business day before the day of the election, provided that applicants who intend to rely on the mails for submitting their application, receiving the absentee ballot package (described in subsection d below), and/or casting their absentee ballot shall be responsible for leaving adequate time for such steps to enable the casting of their absentee ballot on the day of the election.

c. **Voter Registration Certificate.** On receipt of a timely and proper application for absentee ballot, the applicant shall be provided with an absentee ballot after filing of a signed Voter Registration Certificate as provided below. The filed Voter Registration Certificate shall be numbered in the upper right-hand corner. The Voter Registration Certificate shall be in the form described in section 11.

1. **In-Person Applications.** If the applicant presents the application for absentee ballot in person, the applicant must also deliver to the Tribal Secretary a signed Voter Registration

Certificate for the election. Upon receipt of such a timely and proper Voter Registration Certificate from the applicant, the Tribal Secretary shall deliver an absentee ballot package to the applicant.

2. **Mail Applications.** If the applicant presents the application for absentee ballot by mail, upon receipt thereof the Tribal Secretary shall sign a Voter Registration Certificate for the election on behalf of the applicant and shall also sign the Certificate as Tribal Secretary. Thereafter, the Tribal Secretary promptly shall mail an absentee ballot package to the applicant using the mailing address specified in the application for absentee ballot.

3. **Delivery of Registration Certificates to District Election Board.** On the day of the election before the polls open, the Tribal Secretary shall deliver all such executed Voter Registration Certificates in a District to the District Election Board, in order to enable the Board to record on the District Voters List that absentee ballots have been provided to the persons named in the Voter Registration Certificates.

d. **Absentee Ballot Package.** The absentee ballot package shall consist of the following:

- The ballot detached from the applicant's Voter Registration Certificate. The ballot shall be in the form described in section 12.
- An envelope addressed to the Tribal Secretary and marked "Ballot -- _____ District" in the upper left-hand corner, for use in returning and casting the executed ballot as provided in subsection e below.
- A letter of instructions from the Tribal Secretary, substantially in the form attached hereto as Exhibit Q.

e. **Casting the Absentee Ballot.** An absentee ballot may be cast in either of the following two ways only:

1. **Deliver to Secretary and Secretary Deposits in Ballot Box.** The voter may return the absentee ballot, in the sealed return envelope, by mail or in-person hand-delivery to the Tribal Secretary's office no later than 4:30 p.m. of the day of the election. The Tribal Secretary shall deposit each such absentee ballot in the ballot box of the District noted on the absentee ballot envelope. If the absentee ballot is not received in the Tribal Secretary's office until the day of the election, the Tribal Secretary shall make best efforts to arrange for its deposit in the ballot box at the District polling place before the polls close, but cannot guarantee such deposit.

2. **In-Person Voting.** Alternatively, the absentee voter in-person may deposit the absentee ballot in the ballot box at the District polling place on the day of the election, before the polls close.

3. **No Other Method.** A person to whom an absentee ballot is mailed or delivered may vote only by casting of the absentee ballot as provided immediately above, and may not vote in the election by any other ballot or means. If a mailed absentee ballot is lost in the mails or is otherwise lost before it is cast, the applicant for the ballot will not be able to vote in the election.

* Section 16. **CANVASS AND COUNTING OF BALLOTS; CERTIFICATION OF RESULTS; STORAGE OF ELECTION DOCUMENTS; SWEARING-IN.** The following rules shall be observed in all elections:

a. **Close Polls; District Count; District Certificates; Bring to Tribal Secretary.** At the time fixed for the closing of the polls in a District, the District Election Board shall close the polls and cease registering voters and receiving cast ballots. Immediately thereafter, the District Election Board shall canvass the ballots and count all votes cast in its District for each candidate for each position, and on any proposition, question or other matter on the ballot. Upon completion of the count, the District Election Board shall prepare and sign a Certificate of District Election Results. For primary elections, the Certificate of District Election Results shall be substantially in the form attached hereto as Exhibit R. For general elections, the Certificate of District Election Results shall be substantially in the form attached hereto as Exhibit S. Upon execution of the Certificate of District Election Results, the District Election Judge immediately shall bring the Certificate, the District ballot box containing the cast ballots, and any Certificate of Spoiled Ballots executed under subsection c below, to the Tribal Secretary's office.

b. **Reservation-Wide Count; Reservation-Wide Certificates.** Upon reaching the Tribal Secretary's office, in a suitable place at the Tribal offices designated by the Tribal Secretary and in the presence of the Tribal Secretary, and based on the results reported on each Certificate of District Election Results, the Reservation-Wide Election Board immediately shall compile the Reservation-wide results of the election and prepare and sign a Certificate of Reservation-Wide Election Results (This shall be done even for a primary election in which the only open position(s) to be voted on in the election is an open Tribal Council seat(s) in one District). In no case may such Certificate be signed later than five days after the election. For primary elections, the Certificate of Reservation-Wide Election Results shall be substantially in the form attached hereto as Exhibit T. For general elections, the Certificate of Reservation-Wide Election Results shall be substantially in the form attached hereto as Exhibit U. The originals of each executed Certificate of District Election Results and Certificate of Reservation-Wide Election Results shall be delivered to the Tribal Secretary. The Tribal Secretary shall retain copies of such documents, promptly provide copies thereof to the President, Vice President, and each member of the Tribal Council, and arrange for the posting of a copy of the Certificate of Reservation-Wide Election Results in a public place in each Reservation District.

c. **Spoiled Ballots.** If the District Election Board determines that all or any portion(s) of any ballot should not be counted because of a defect or impropriety in the physical condition, form, execution or casting of the ballot, the District Election Board shall prepare and sign a Certificate of



Spoiled Ballots and attach thereto all original ballots which are spoiled in their entirety. If a defect or impropriety is determined not to invalidate all votes made on a ballot, the valid vote(s) shall be included in the vote count. In such case, the District Election Board shall make notation on the original ballot indicating which votes are invalid and shall attach a copy of the ballot so marked to the Certificate of Spoiled Ballots. For primary elections, the Certificate of Spoiled Ballots shall be substantially in the form attached hereto as Exhibit V. For general elections, the Certificate of Spoiled Ballots shall be substantially in the form attached hereto as Exhibit W.

d. Storage of Election Documents.

1. **Tribal Secretary.** In all elections, the originals of the following documents shall be retained by the Tribal Secretary: Notice Soliciting Candidates; Notice of Election; and Declarations of Candidacy. The Tribal Secretary shall serve as the permanent custodian of such documents, unless otherwise directed by a court of competent jurisdiction.

2. **BIA Superintendent.** In all elections, the originals of the following documents promptly shall be delivered to the Superintendent of the Bureau of Indian Affairs' Northern Cheyenne Agency: Voter Registration Certificates grouped by District; Applications for Absentee Ballot grouped by District; Ballots grouped by District; Certificates of Spoiled Ballots; Certificates of District Election Results; and Certificates of Reservation-Wide Election Results. The Agency Superintendent shall serve as the custodian of such documents through at least the end of the six-month period following the general election, unless otherwise directed by a court of competent jurisdiction.

e. **Swearing to Office.** At the first regular Tribal Council meeting occurring after the expiration of the seven-day period following the signing of the Certificate of Reservation-Wide Election Results for the general election, the successful candidates shall be sworn to the offices to which they have been elected. The swearing-in shall occur irrespective of the presence of a sufficient number of Tribal Council members theretofore in office to constitute a quorum. The following oath of office shall be administered by a Tribal Judge or Notary Public licensed in the State of Montana, as required by Article III, Section 2 of the Bylaws of the Tribe:

I, _____, do solemnly swear that I will support and defend the Constitution of the United States against all enemies; carry out faithfully and impartially the duties of my office to the best of my ability; promote and protect the best interests of my Tribe, the Northern Cheyenne, in accordance with the Constitution and Bylaws of the Tribe.

* **Section 17. ELECTION BOARDS.** In all elections, an Election Board for each Reservation District and a Reservation-Wide Election Board shall be appointed and function as follows:

a. **Appointment of Election Judges and Clerks.** No later than 30 days before the date

set for any primary election, the Tribal Council shall appoint an Election Judge and a set of Election Clerks for each Reservation District. The appointments may include alternates to serve if an appointee declines to serve. Each District shall have one Election Judge and at least the following number of Election Clerks:

<u>Total Council Seats Allocated to District</u>	<u>Min. No. of Election Clerks for District</u>
1	2
2	3
3	3
4 or more	4

The Tribal Secretary promptly shall give written notice of such appointment to each Election Judge and Election Clerk, as well as to any alternates. If an appointee and his/her alternates (if any) decline appointment or otherwise refuse to serve, the remaining Election Judge and Clerks in the District shall by majority vote appoint a replacement.

b. Oath of Office. No later than before the polls open in the District, the District Election Judge and Clerks shall assemble at the polling place and take the oath of office set forth in section 16.e, administrated by a Tribal Judge or Notary Public licensed in the State of Montana, as required by Article III, Section 2 of the Bylaws of the Tribe, provided that an Election Judge or Election Clerk who has taken the oath of office in connection with the primary election need not take the oath again in connection with the general election.

c. District Election Board. The Election Judge and Clerks for a District shall constitute the District Election Board. The District Election Judge shall be the Chairman of the District Election Board. The District Election Board shall appoint a Secretary from among the Board members. The District Election Board shall take action by majority vote of the Election Judge and Clerks.

*** d. Conduct of Election in District.** Within the District, the District Election Board shall administer and conduct the primary election (if one is to be conducted within the District) and the ensuing general election. The District Election Board shall:

- Arrange and open the polling place.
- Register qualified voters at the polling place in accordance with section 11, and receive from the Tribal Secretary and administer Voter Registration Certificates of absentee voters as provided in section 15.c.3.
- Provide ballots to registered voters at the polling place in accordance with section 12.

- Administer the casting of ballots at the polling place in accordance with section 13.
- Close the polling place, canvass the ballots cast, count the votes, and prepare and sign a Certificate of District Election Results in accordance with section 16.a.
- Determine whether any ballot cast is defective or improper, in whole or in part, and, if so, prepare and sign a Certificate of Spoiled Ballots in accordance with section 16.c.
- Ensure that the Election Judge immediately brings the District ballot box, Certificate of District Election Results, and any Certificate of Spoiled Ballots to the Tribal Secretary's offices in accordance with section 16.a.
- Take any other action necessary to properly administer and conduct the election in the District and to determine the results thereof.
- Perform any other duties and exercise any other rights which may be delegated to it by this Ordinance, any other enactment of the Tribal Council, or other applicable law.

e. Reservation-Wide Election Board. The five Election Judges for the Reservation Districts shall constitute the Reservation-Wide Election Board under Article III, Section 1 of the Bylaws of the Tribe. The Reservation-Wide Election Board shall take action by majority vote. The Reservation-Wide Election Board shall:

- Compile the Reservation-wide results of the election and prepare, sign and deliver the Certificate of Reservation-Wide Election Results, in accordance with section 16.b.
- Take any other action necessary to ascertain the Reservation-wide results of the election.
- Perform any other duties and exercise any other rights which may be delegated to it under this Ordinance, any other enactment of the Tribal Council, or other applicable law.

f. Fees and Expenses. At rates set by the Tribal Council in line with generally prevailing rates for service on Tribal commissions or boards, a fee shall be paid and out-of-pocket expenses shall be reimbursed to the Election Judges and Clerks for in-person participation in Election Board functions. Such fees and expenses shall not be paid, however, to any Election Judge or Clerk who is receiving compensation for the time spent or expense reimbursement as an employee of or contractor to the Tribe.

Section 18. MISCELLANEOUS ELECTION RULES. The following rules shall be observed in all elections:

a. **Run for One Position.** A person may not simultaneously file Declarations of Candidacy for more than one position. A person may not be listed as a candidate for more than one position in the primary or general elections. If a person (due in whole or part to write-in voting) qualifies as a candidate for more than one position in forthcoming general elections, such person promptly shall advise the Tribal Secretary as to the single position for which such person is to be listed as a candidate in such elections.

b. **Withdrawal Before Election.** A person who has qualified to run in a primary or general election may, at any time before such election is held, cancel his/her candidacy in such election by filing with the Tribal Secretary a Notice of Cancellation of Candidacy substantially in the form attached hereto as Exhibit X. Upon such filing, the Notice shall be irrevocable and such person's name shall not be listed or, if already listed, shall be stricken by the Tribal Secretary or District Election Boards, or shall be deemed stricken, as a candidate for such office in the forthcoming election. Any votes cast for a person so withdrawing in the forthcoming primary or general election, including write-in votes, shall be counted but shall not be effective. Such a person shall not be entitled to a refund of any portion of any filing fee paid in connection with his/her candidacy.

c. **Hold One Office; Officials and Employees May Run.** No person may simultaneously hold more than one elected office. While holding an elected office a person may run for a second office, provided that, if such person is elected, the first office shall become vacant when such person is sworn in to the second office. While employed or retained by the Tribe or an instrumentality of the Tribe a person may run for office, provided that, if elected, such person promptly shall resign from such employment or position and shall not be sworn into office until such resignation is effective.

d. **Resolving Ties.** In all elections other than primary elections, tie votes shall be resolved by a public drawing of lots by the Tribal Secretary.

e. **If Winning Candidate Cannot Be Sworn-In.** If a person who is elected to office in any regular or special election dies, withdraws or is disqualified before being sworn into the office, candidates for the office shall be redetermined and a general election shall be held in a manner which, in the judgment of the Tribal Council, is most appropriate under the circumstances and in light of the policies underlying section 7 or 8, as the case may be. The decision of the Tribal Council shall be final and not subject to judicial review in any court.

f. **Serve Until Successor Sworn In.** A person elected as President, Vice President, Trial Judge of the Tribal Court, or Tribal Council member shall be elected for the term of office specified in this Ordinance and until his/her successor is sworn into office.

Section 19. FILLING VACANCIES IN OFFICE. If the office of President, Vice President, Trial Judge of the Tribal Court, or a seat on the Tribal Council allocated to a Reservation District, becomes vacant due to death, resignation, removal, or other cause, the Tribal Council shall schedule a special election to fill the vacancy for the remainder of the term of office as follows:

a. **President, Vice President or Trial Judge.** In the case of a vacancy in the office of President, Vice President, or Trial Judge, candidates for office shall be determined as provided in sections 7.a - .d and a special election shall be held as provided in subsection c below, provided that the Tribal Council may determine not to hold an election as permitted by subsection c below. If the office of President is vacant, the Vice President shall serve as acting President until the next President is elected and sworn into office. If the offices of both President and Vice President are vacant simultaneously, the Tribal Council shall appoint from within its own number an acting President who shall serve until the next President is elected and sworn into office. While the Vice President or appointed Tribal Council member serves as acting President, such person's seat on the Tribal Council shall be considered temporarily vacant, and upon completion of such service such person shall resume occupancy of the seat.

b. **Tribal Council.** In the case of a vacancy in one of the ten seats on the Tribal Council allocated among the Districts, candidates shall be determined as provided in sections 8.a - .d and a special election shall be held as provided in subsection c below, provided that the Tribal Council may determine not to hold an election as permitted by subsection c below.

c. **Election to Fill Vacancy.** A general election to fill a vacancy shall occur no later than 90 days after the occurrence of the vacancy, provided that, if the vacancy in office occurs when there is less than 180 days remaining in the term of the office, the Tribal Council in its discretion may choose not to hold the election. The decision of the Tribal Council shall be final and not subject to judicial review in any court. If the Tribal Council so chooses not to hold an election as to a vacancy in a Tribal Council seat allocated to a District or a vacancy in a Trial Judge seat, the Council promptly shall publicly solicit the filing of Declarations of Candidacy by qualified persons desiring to be appointed to the seat for the remainder of its term. No filing fee shall be required. Promptly after the close of such filing period, by majority vote the Tribal Council shall make such appointment from among all qualified persons filing a Declaration of Candidacy.

Section 20. VOTERS COMMITTEE. The Tribal Council hereby establishes a standing Tribal governmental committee to be known as the Voters Committee.

a. **Structure.**

1. **Number and Appointment.** The Voters Committee shall consist of five Committee Members. Each Committee member shall be appointed by the President with the concurrence of the Tribal Council. The appointments may include alternates to serve if an appointee declines to serve.

2. Qualifications. Each Committee member will be a member of the Tribe, at least 25 years old, and a resident of the Reservation. There shall be one Committee member from each of the five Reservation Districts. Each Committee member shall be a person of integrity, committed to the best interests of the Tribe, and capable through background, experience and knowledge of the Tribal membership and the Reservation to competently perform the duties of a Committee member. Neither the President, Vice President, Secretary, Treasurer, a Trial Judge of the Tribal Court, nor any member of the Tribal Council, may serve as a Committee member. A Committee member who desires to be a candidate for the Tribal Council, President, Vice President, or Trial Judge in a forthcoming primary or general election, must immediately resign from the Voters Committee.

3. Term. All Committee members shall serve for four-year, staggered terms, and until their successors are appointed. However, to establish the staggered terms, upon enactment of this Ordinance, the President with the concurrence of the Tribal Council shall make the following appointments to the Voters Committee: a person from Ashland and a person from Birney shall be appointed to serve as Committee members through the regular Tribal election of 1998 and until their successors are appointed; and a person from Busby, Lame Deer and Muddy shall be appointed to serve as Committee members through the regular Tribal election of 2000 and until his/her successor is appointed. After the regular Tribal election of 1998 and after the regular election every four years thereafter, Voters Committee seats from Ashland and Birney shall be declared open and two persons shall be appointed to those seats. After the regular Tribal election of 2000 and after the regular election every four years thereafter, the Voters Committee seats from Busby, Lame Deer and Muddy shall be declared open and three persons shall be appointed to those seats.

4. Removal and Replacement. A Committee member may be suspended or removed at any time, without a hearing, by concurrence of the President and two-thirds of the full Tribal Council, for any reason they deem sufficient in their discretion. The joint decision of the President and Tribal Council to suspend or remove shall be final and not subject to review in any court. If a seat on the Voters Committee becomes vacant due to removal, resignation, death, or any other reason, a replacement shall be appointed for the remainder of the replaced person's term.

5. Chairperson and Vice-Chairperson, and Secretary. From among the Committee members, the Voters Committee shall designate a Chairperson, Vice-Chairperson, and Secretary of the Committee, each of whom shall serve at the pleasure of the Committee.

b. Powers and Duties of Voters Committee. The Voters Committee shall have the following powers and duties:

- Prepare Membership Lists as provided in section 3.a.
- Determine the allocation of the Five Additional Council Seats as provided in section 3.b.
- Review all filed Declarations of Candidacy as provided in sections 7.b and 8.b.

- Prepare District Voters Lists as provided in section 10.b.
- Work cooperatively with the Tribal Secretary and the Tribal Council in planning, scheduling and implementing all elections.
- Perform any other duties and exercise any other rights which may be delegated to it by this Ordinance, any other enactment of the Tribal Council, or other applicable law.
- Take any other action necessary to properly perform its duties.

c. Voters Committee Operations.

1. Quorum and Voting. Four Committee members shall constitute a quorum. The Chairperson may vote and shall preside over all meetings. ~~Action by the Voters Committee shall be by affirmative vote of three Committee members.~~

2. Recusal. A Committee member may voluntarily recuse himself/herself and decline to participate in any Voters Committee action or decision when the Committee members believes he/she could not act fairly or without bias, or that there would be an appearance that he/she could not so act.

3. Chairperson. Subject to the supervisory authority and direction of the Voters Committee, the Chairperson shall serve as the principal spokesperson for the Voters Committee and shall chair Voters Committee meetings. The Chairperson shall have such other powers and duties as may be set forth in this Ordinance or other applicable law, or assigned by the Voters Committee or the Tribal Council.

4. Vice-Chairperson. If the Chairperson is unavailable because of recusal or any other reason, the Vice-Chairperson shall serve as acting Chairperson.

5. Secretary. The Secretary shall issue notices of all Voters Committee meetings, keep minutes of all meetings, and serve as custodian of and maintain within the Reservation copies of all minutes and associated documents, and all other Voters Committee documents, records and correspondence. As provided in subsection 8 below, Voters Committee documents, records and correspondence shall be delivered to and maintained by the Tribal Secretary.

6. Meetings; Removal for Non-Attendance.

a. Meetings of the Voters Committee may be called by the Chairperson or two Committee members. The Secretary shall give each Committee member reasonable notice of the time and place of the meeting. Neither the business to be transacted at, nor the purpose of the meeting, need be specified in the notice of the meeting. Minutes of every meeting shall be taken by

the Secretary or, in the Secretary's absence, a Committee member designated by the Chairperson.

b. Any Committee member who fails to attend or otherwise participate in three out of any four consecutive meetings of the Voters Committee shall be deemed removed as a Committee member, unless the Committee determines that one or more of such failures to attend should be excused.

c. Any action required or permitted to be taken at a meeting of the Voters Committee may be taken without a meeting if all Committee members sign a written consent to the action. Such consents shall be preserved with the minutes of the Voters Committee.

d. Committee members may participate in a Voters Committee meeting by conference telephone or similar communications equipment by which all persons participating in the meeting can hear each other.

e. Any member of the Tribe may attend any meeting of the Voters Committee, subject to the right of the Committee to go into executive session when considered warranted by the Committee.

7. Committee Members' Fees and Expenses. At rates set by the Tribal Council in line with generally prevailing rates for service on Tribal commissions or boards, a fee shall be paid and out-of-pocket expenses shall be reimbursed to the Committee members for in-person participation at Voters Committee meetings or other functions or activities of or on behalf of the Committee (including travel time on the same day to off-Reservation sites). Such fees and expenses shall not be paid, however, to any Committee member who is receiving compensation for the time spent or expense reimbursement as an employee of or contractor to the Tribe.

8. Books and Records. The Voters Committee shall assure that all original books and records, minutes, and other material books, records, documents, correspondence and of the Committee, are timely delivered to the office of the Tribal Secretary to be maintained by the Tribal Secretary with the official records of the Tribe. All such materials shall be made available at any reasonable time for inspection and copying by any Committee member, and any duly authorized representative of the President or Tribal Council. Upon terminating office a Committee member shall turn over to his/her successor or the Chairperson in good order, all books, records, minutes, and other documents of the Voters Committee in his/her custody or control.

Section 21. APPLICABILITY TO OTHER MEMBERSHIP VOTES. Subject to the direction of the Tribal Council by majority vote, the provisions of this Ordinance, to the extent in whole or in part relevant or otherwise adaptable, shall be followed, adapted, or used as guidelines in conducting other votes of the Tribal membership such as, without limitation, referendums under the Tribal Constitution, votes seeking ratification, confirmation or other approval of actions of the Tribal Council, and votes of confidence or advisory votes with respect to proposed actions of the Tribal Council. This shall include, without limitation, the following provisions of this Ordinance:

Section 9.b -- Notice of Election

Section 10 -- Voters and Voters Lists

Section 11 -- Registration at Polls

Section 12 -- Ballots

Sections 13.a, .c and .d -- Casting of Ballots

Section 14 -- Ballot Boxes

Section 15 -- Absentee Voting

Sections 16.a - .d -- Canvass and Counting of Ballots, Certification of Results,
Storage of Election Documents.

Section 17 -- Election Boards

Section 20 -- Voters Committee

Section 22.b, .d, .e, .f and .h -- Election Contests and Recounts

Section 23 -- Violations

Section 22. ELECTION CONTESTS AND RECOUNTS. The Northern Cheyenne Tribal Court shall have jurisdiction over proceedings to contest elections and/or secure a recount of the ballots cast ("Election Contest"). An Election Contest shall be filed, conducted, and decided in accordance with the following provisions:

a. Applicable to All Elections. An Election Contest may be brought with respect to any and all elections.

b. Initiation; Defendants. An Election Contest shall be initiated by the filing of a complaint naming as defendants the Reservation-Wide Election Board and those ~~winning~~ candidates whose victory is being challenged. The complaint shall be filed, along with a \$50 filing fee, no later than seven calendar days after the results of the particular primary or general election being challenged have been certified by the Reservation-Wide Election Board by the execution and delivery to the Tribal Secretary of the Certificate of Reservation-Wide Election Results as provided in section 16.b ("Election Certification Date"). The complaint shall be served on each member of the Reservation-Wide Election Board and the winning candidates named in the complaint within 12 calendar days after the Election Certification Date.

c. **Plaintiff.** An Election Contest may be initiated only by one or more candidates who lost the primary or general election being challenged, and by no other person or party. If the plaintiff dies before the claims in his/her complaint are decided by the court, those claims shall not survive and shall be dismissed.

d. **Grounds.** An Election Contest complaint must allege, in reasonable detail, facts and claims:

- that serious or repeated violations of material provisions of this Ordinance, the Tribal Constitution and Bylaws, or other applicable law occurred in connection with the election; and
- that such violations actually, or in all likelihood, altered the outcome of the election.

The complaint may seek relief only as provided in subsection e below.

e. **Relief.** If the court finds and concludes that grounds described in subsection d above have been established by a preponderance of the evidence, it may grant the following relief to the extent sought and warranted:

- an order directing a recount of the votes cast for the positions in issue by the District Election Boards and the Reservation-Wide Election Board, under the supervision of the court; and/or
- judgment overturning the election results with respect to challenged positions and declaring a new winner for such positions; and/or
- judgment voiding the election results with respect to challenged positions and directing that a new election be held for such positions; and
- in connection with any of the foregoing, issuing such orders as it considers necessary for the implementation of the relief provided.

f. **Trial and Appeal.** An Election Contest shall be tried to the court and not to a jury, shall take precedence over all other matters before the Northern Cheyenne Tribal Court at trial and (if appealed) on appeal, and judgment shall be entered as promptly as possible. There shall be a right of appeal to the Tribal Appellate Court. In all such proceedings, all applicable provisions (as they may be amended) of Titles I (General Provisions Code), II (Appellate Code), IV (Rules of Civil Procedure and Civil Code), and VI (Rules of Evidence Code) of the Tribal Law & Order Code shall apply, unless inconsistent with the provisions of this section 22, in which case the provisions of this section 22 shall control.

g. **Continued Service in Office.** Notwithstanding the initiation and pendency of an

Election Contest, all winners in a challenged general election who have been certified and sworn into office shall remain in office, unless and until the court orders otherwise and all rights of appeal to the Tribal Appellate Court have been exhausted.

h. Strict Compliance. The provisions of this section 22 shall be strictly construed. Any failure to comply with subsections b, c or d above shall result in the prompt dismissal of the Election Contest.

Section 23. VIOLATIONS.

a. Election Fraud. Any candidate in a Tribal primary or general election who, directly or indirectly, commits or causes to be committed, or aids and abets in the commission of, any fraud in connection with the conduct of the election shall forfeit his/her right to be a candidate in the forthcoming primary or general election, as the case may be, or, if elected to office in the general election, shall forfeit his/her rights to the office and to all emoluments thereof. Such claims may be asserted in an Election Contest brought under section 22, or thereafter by the Tribe in a civil or criminal proceeding brought by the Tribal prosecutor, after probable cause for such claims is found to exist by vote of the Tribal Council.

b. Solicitation at Polls. On the day of any Tribal primary or general election, a candidate shall not campaign for office and/or loiter at any District polling place or within 25 feet thereof.

Section 24. AMENDMENT OR REPEAL. This Ordinance may be amended, repealed or suspended only by affirmative vote of two-thirds of all Tribal Council seats (whether such seats are filled or vacant), i.e., by affirmative vote of 8 Tribal Council members.

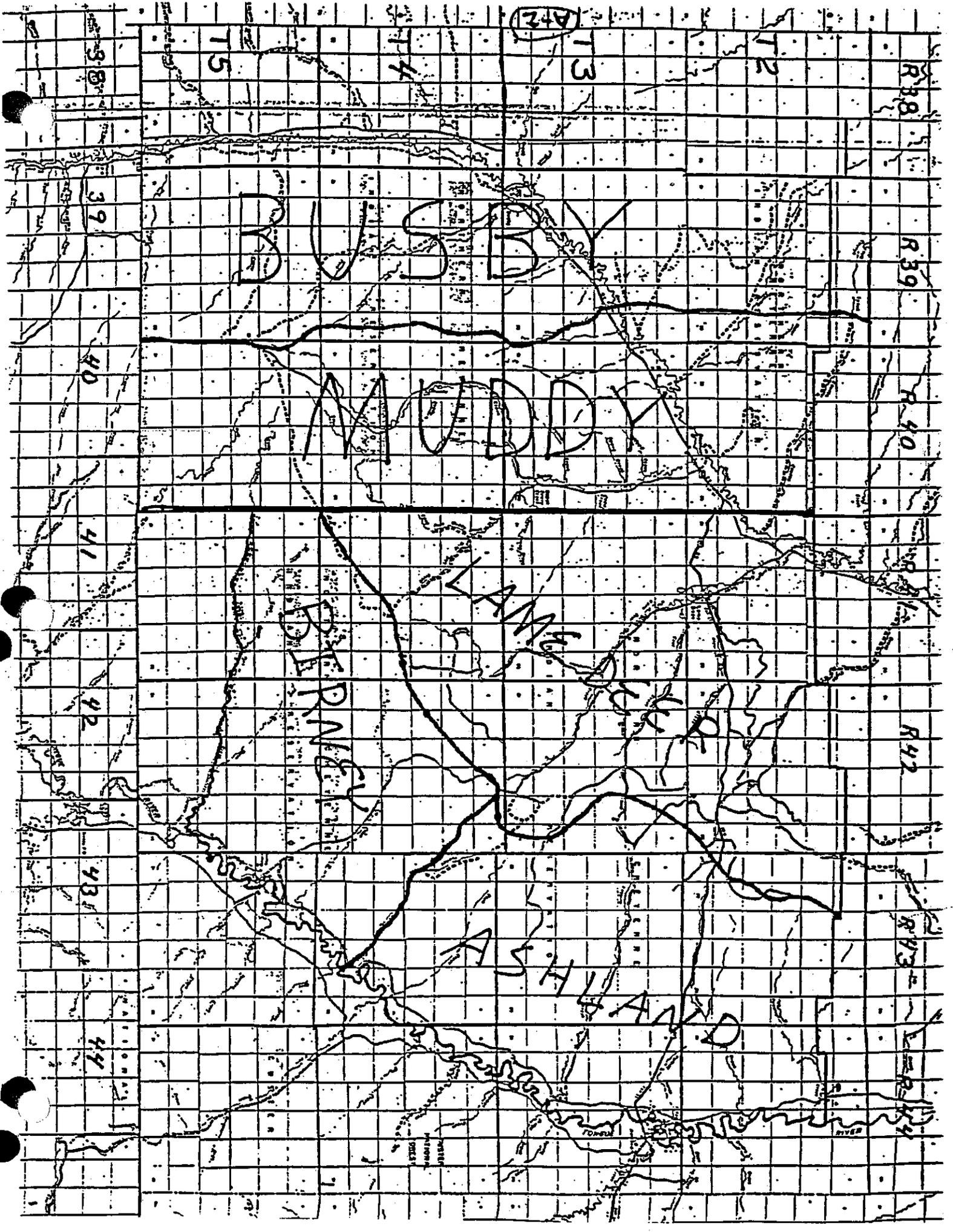


Exhibit A

MAP OF RESERVATION DISTRICTS

(Insert current map of Districts)

See page A-2



(A+2)

R38

R39

R40

R42

R43

R44

15

14

13

12

38

39

40

41

42

43

44

RUSBY

MADON

BIRNBY

ASHLAND