

ORDINANCE NO. 310-08

BE IT FURTHER RESOLVED, that the Tribal Code of Justice of the Standing Rock Sioux Tribe be and the same is hereby amended by adoption of a New Title XXXIX. To be known as the "STANDING ROCK SIOUX TRIBAL COUNCIL CODE OF ETHICS AND STANDARDS OF CONDUCT ORDINANCE".

[DOCUMENT ATTACHED AS PAGES 1-8]

RESOLUTION NO. 733-08

BE IF FURTHER RESOLVED, that pursuant to the power vested in the Standing Rock Sioux Tribal Council under the Constitution of the Standing Rock Sioux Tribe, the foregoing ORDINANCE NO. 310-08, be and the same is hereby approved and adopted; and

BE IT FURTHER RESOLVED, that the Chairman and Secretary of the Tribal Council, are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

CERTIFICATION

We, the undersigned, Chairman and Secretary of the Tribal Council of the Standing Rock Sioux Tribe, hereby certify that the Tribal Council is composed of [ 17 ] of whom 12 constituting a quorum, were present at a meeting thereof, duly and regularly, called, noticed, convened and held on the 17<sup>th</sup> day of NOVEMBER, 2008, and that the foregoing resolution was duly adopted by the affirmative vote of 11 members, with 0 opposing, and with 1 not voting. THE CHAIRMAN'S VOTE IS NOT REQUIRED EXCEPT, IN CASE OF TIE.

DATED THIS 17<sup>th</sup> DAY OF NOVEMBER, 2008.

ATTEST:

*Ron His Horse Is Thunder*  
for Ron His Horse Is Thunder, Chairman  
Standing Rock Sioux Tribe

*Geraldine Agard*  
Geraldine Agard, Secretary  
Standing Rock Sioux Tribe

[Official Tribal Seal]

Meeting Date: 11-17-2008  
Motion No. 05

**TITLE XXXIX – ORDINANCE NO. 310-08**  
**TRIBAL COUNCIL CODE OF ETHICS AND STANDARDS OF CONDUCT**

(Adopted by SRSTC on November 17, 2008 by Resolution No. 733-08)

**TABLE OF CONTENTS**

<b><u>CHAPTER NO.</u></b>	<b>PAGE NOS.</b>
<b>CHAPTER 1. STANDING ROCK SIOUX TRIBAL COUNCIL</b>	
<b>CODIFICATION.....</b>	<b>Page 1</b>
<b>39-010. PURPOSE.....</b>	<b>Page 1</b>
<b>39-020. POLICY.....</b>	<b>Page 1</b>
<b>39-030. DEFINITIONS.....</b>	<b>Page 1 - 2</b>
<b>39-040. ETHICAL OBLIGATIONS.....</b>	<b>Page 2 - 3</b>
<b>39-050. PROHIBITION ON IMPROPER CONDUCT.....</b>	<b>Page 3 - 4</b>
<b>39-060. INVESTIGATION OF TRIBAL COUNCIL MEMBER.....</b>	<b>Page 4 - 6</b>
<b>39-070. FINAL DETERMINATION.....</b>	<b>Page 6</b>
<b>39-080. LIMITED WAIVER OF INDIVIDUAL IMMUNITY.....</b>	<b>Page 7</b>
<b>39-090. SANCTIONS.....</b>	<b>Page 7</b>
<b>39-100. APPEALS.....</b>	<b>Page 7</b>
<b>39-110. SEVERABILITY.....</b>	<b>Page 7</b>
<b>39-120. REPEAL OF INCONSISTENT ORDINANCES.....</b>	<b>Page 8</b>
<b>39-130. ADOPTION.....</b>	<b>Page 8</b>

# **TITLE XXXIX. – ORDINANCE NO. 310-08**

## **STANDING ROCK SIOUX TRIBE** **TRIBAL COUNCIL CODE OF ETHICS AND STANDARDS OF CONDUCT**

### **CHAPTER 1. STANDING ROCK SIOUX TRIBAL COUNCIL**

#### **CODIFICATION**

- (A) This ordinance shall be known as the "Standing Rock Sioux Tribal Council Code of Ethics and Standards of Conduct Ordinance of 2008".
- (B) The short title shall be "Tribal Council Ethics Code".
- (C) This Ordinance shall be codified as Title XXXIX (39), Sections 010 – 130.

#### **39-010. PURPOSE**

Members of Tribal Council are vested with authority to represent and act on behalf of the tribal membership and the Standing Rock Sioux Tribe. The Council exercises exclusive legislative authority under the Constitution. As such Council Members have been invested with the sacred trust of the tribal membership. The purpose of this ordinance is to maintain and protect this solemn obligation by stating the ethical obligations of Council Members, to define Standards of Conduct for Council Members, and to set forth the consequences for violating these obligations.

#### **39-020. POLICY**

Tribal Council Members shall maintain the highest standards of honesty, integrity, fairness and impartiality in their conduct as Council Members, and shall avoid any actions which would adversely reflect on the Tribal Council or the Standing Rock Sioux Tribe. Council Members shall take action in the best interest of the Tribe and the tribal membership, not in their personal interest. Council Members shall not engage in behavior involving a conflict of interest, or acts that involve actual or apparent impropriety, as those terms are defined in this ordinance. Council Members shall carry out their duties and responsibilities in the highest ethical manner. Violation of this ordinance may constitute "neglect of duty" or "gross misconduct" as those terms are used in Title XIX of the Standing Rock Sioux Code of Justice, Sections 19-401 – 402, and the Tribal Constitution, Article III, Section 8 - (Removal of Council Representatives) and Section 11 -(Removal of Tribal Chairman, Vice-Chairman and Secretary).

#### **39-030. DEFINITIONS**

- (A) "Conflict of Interest" means:
  - (i) Action or conduct by a Council Member which is in conflict with the Council Member's obligation to take actions in the best interest of the Tribe and the tribal membership; or

- (ii) When the Council Member, or his immediately family, has or should have anticipated that a personal or financial interest would develop that is separate from or adverse to the Tribe.
- (B) "Acts of Dishonesty or Other Improprieties" means those acts involving an actual impropriety (such as illegal acts) while serving on behalf of the Tribe; acts involving an abuse of power; acts involving dishonest conduct; or acts that would do a disservice to the Tribe's reputation.
- (C) "Relative" means: father, mother, grandfather, grandmother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, whether or not by adoption. In addition, the term includes husband, wife, son-in-law, daughter-in-law, father-in-law, mother-in-law, sister-in-law, brother-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister. The term "closely associated person" means significant other and/or domestic partner.

**39-040. ETHICAL OBLIGATIONS**

- (A) Council Members shall not take any official action, whether in a Tribal Council meeting, committee meeting, or otherwise, in which the Council Member, or a member of his or her relative or closely associated person, has a personal or financial interest which could be affected by such action.
- (B) Council Members shall not act as official representatives of the Tribal Council or the Tribe, or make statements to the media on behalf of the Tribe, without express authorization of the Tribal Council or the Chairman. The Chairman is the official representative of the Tribe when the Tribal Council is not in session and may make or cause to be made official comments/responses to the media on behalf of the Tribe unless that authority is otherwise properly delegated.
- (C) Council Members shall not bring an action as a tribal member before any court, federal or state government in any proceeding in a matter in which the Tribe is a party or has an interest.
- (D) Council Members shall attend all required meetings. Three successive unexcused absences shall constitute a violation of this ordinance.
- (E) Council Members shall not interfere with or participate in any tribal employment decisions related to his or her relative or closely associated person.
- (F) Council members shall neither become nor remain employed as Tribal employees while in office. A tribal employee who becomes a Council Member shall resign his or her employment before being sworn into office. A Council Member who accepts employment as an employee of the Tribe or a tribal entity shall resign his or her office before commencing his or her first day of employment. Council Members shall not take employment that is not compatible with their duties and responsibilities to the Tribe as a Council Member or Officer of the Tribe.

- (G) Council Members shall not engage in any personal investments that they become aware of as a result of their position in the Tribe unless they first disclose the opportunity to the Tribal Council and the Council votes to not take advantage of the opportunity.
- (H) Council Members shall not vote on the contracting or procurement of goods in which they or their relative or closely associated person have a personal or financial interest, unless the interest is fully disclosed to the Tribal Council and the Council votes and approves the transaction.
- (I) Council Members shall not accept on his or her own behalf, or on behalf of their immediate family, individual gifts valued at over \$150.00, except for the following:
  - (1) Ceremonial and customary gifts generally granted to dignitaries;
  - (2) Food and refreshments of a nominal value in the ordinary course of a luncheon or dinner meeting;
  - (3) Personal achievement awards for meritorious service;
  - (4) Unsolicited advertising or promotional material of nominal value;
  - (5) Loans on customary terms to finance proper and usual activities on the same basis as any enrolled member of the Tribe.
- (J) Council Members shall not accept on his or her own behalf, or on behalf of their immediate family, any gifts, monetary or otherwise, intended for the Tribe.
- (K) Council Members shall not knowingly making public any confidential information received in connection with one's duties as a council member, including but not limited to:
  - (1) Matters discussed during Tribal Council study or executive sessions;
  - (2) Matters protected as confidential under Tribal, federal, or state law;
  - (3) Information given to a tribal official or employee with the reasonable expectation that such information would be kept confidential.

**39-050. PROHIBITION ON IMPROPER CONDUCT**

- (A) Improper conduct prohibited under this ordinance includes, but is not limited, to the following:
  - (1) Abuse of power, such as using one's position to coerce, threaten, intimidate, or improperly influence a tribal member or tribal employee to provide personal, financial or political benefit to oneself or relative or closely

associated person, or someone they have business or financial ties to, or for any other purpose, or using one's official title in Tribal government to conduct personal business.

- (2) Unauthorized participation or involvement in Tribal Administration and operations, including, but not limited to, business, program, law enforcement, employment, and personnel decisions.
- (3) Unauthorized participation or involvement in any tribally owned or operated enterprise operations, including, but not limited to, business, employment, and personnel decisions.
- (4) Intoxication or being under the influence of illegal drugs while conducting official tribal business;
- (5) Misappropriation or misuse of Tribal funds or property;
- (6) Unauthorized disclosure, concealment, removal, mutilation, or destruction of Tribal records, or copying Tribal records for improper purposes;
- (7) Conviction for committing an act of dishonesty;
- (8) Violating the Tribe's laws, ordinances, resolutions, rules, regulations or policies;
- (9) Conviction of an act defined as a felony under tribal, federal or state law.

**39-060. INVESTIGATION OF TRIBAL COUNCIL MEMBER**

- (A) The Tribal Council shall be responsible for investigating any alleged violations under this ordinance.
- (B) Allegations of unethical or improper conduct as defined in this ordinance by a Tribal Council Member shall be presented to the Tribal Council and processed in the following manner:
  - (1) Allegations of unethical or improper conduct against a Council Member shall only be made in writing and submitted to the Chairman, provided that if an allegation is made against the Chairman, said allegation shall be filed with the Vice-Chairman. Submission to the Council Secretary shall be construed as delivery to the appropriate Council Officer.
    - (a) A written complaint may be submitted by any Council Member, Tribal Member, or Tribal Employee who believes that a Council Member has engaged in unethical or improper conduct as defined by this ordinance. The complaint shall specify the Council Member against whom a complaint is being made, and the conduct that is alleged to be unethical or improper.

- (b) If an allegation of unethical or improper conduct involves action which allegedly wronged a person, the complaint can only be made by the person against whom the unethical or improper conduct allegedly occurred.
  - (c) The Council Member against whom the allegation is made shall be provided with a copy of the allegation(s).
- (2) The Tribal Council shall perform an initial review in executive session of the allegation and complaint. Such review shall take place no later than 31 days after the complaint has been submitted. The purpose of the initial review shall be to determine whether the allegation made falls within the scope of this ordinance and whether, assuming the facts alleged are true, said facts would support a determination of unethical or improper conduct. The Tribal Council member against whom the allegation is made shall not participate in the initial review.
- (3) If the Tribal Council, upon completion of the initial review, determines that the allegation falls within the scope of this ordinance and alleges facts which, if true might support a determination of unethical or improper conduct, the Tribal Council, by majority vote, may refer the allegation for investigation. Tribal Council determination that an allegation requires further investigation shall be made by a motion of the Tribal Council, made in open session by roll call vote, and approved by a two thirds majority of the Tribal Council, i.e., twelve (12) affirmative votes.
  - (a) Any investigation requested by the Tribal Council may be conducted by an *ad hoc* Committee of the Council, or an independent, outside investigator appointed by the Tribal Council.
  - (b) The investigator shall have the authority to take testimony under oath, to issue subpoenas, and to compel the production of documents and other evidence. The Council Member against whom an allegation is made, the complainant, members of the Council, and, if requested by the Tribal Council, the Tribal Attorney shall have the right to be present when sworn testimony is given.
  - (c) Any investigation performed under this ordinance shall be completed by the issuance of a written report which sets forth all of the evidence.
  - (d) The investigator shall notify the Chairman of the completion of the Investigation, unless the Chairman is the subject of the investigation in which case the Vice-Chairman shall receive the said notice. In the event that the Chairman is the subject of the investigation, the Vice-Chairman shall assume all of the Chairman's duties set forth herein.

- (4) Upon receipt of the investigation report, the Chairman shall:
  - (a) Send notice, by certified mail, to the Council Member accused of the ethical violation and the complainant; and
  - (b) Set a hearing date and time not less than ten and not more than 45 days from the date of the notice, at which the investigation report will be presented.
  - (c) A copy of the investigation report shall be included with such notice, along with a statement declaring that the report shall be kept confidential and not disclosed to any other person except the Council Member's spokesperson.
- (5) If Council does not request an independent investigation, then the Chairman shall set a hearing date twenty days following the date that the Tribal Council authorizes the charges. See, Title XIX, § 19-401, *et seq.*
- (6) The hearing shall take place in executive session, with all Tribal Council members present, and shall be recorded. The results of the investigation, if any, shall be presented to the Tribal Council. Only the Tribal Council, Tribal Attorney, complainant, accused Council Member and his or her attorney shall be present during the hearing, provided that witnesses may be called into the Tribal Council executive session to testify.

**39-070. FINAL DETERMINATION**

- (A) At the conclusion of the hearing, the Council Member accused of an ethical violation and the complainant shall be excused from the executive session so the Tribal Council may review the evidence and deliberate.
- (B) The Tribal Council shall make its decision in open Tribal Council session, by recorded roll call vote, whether an ethical violation under this ordinance has occurred. Said decision shall be made by a motion of the Tribal Council made and seconded in open session and voted upon by roll call vote, and approved by a two thirds majority of the Tribal Council voting. If the Tribal Council decides that an ethical violation has occurred, the Tribal Council shall then decide, by motion, an appropriate sanction, if any, to impose on the Council Member who has been found by the Tribal Council to have engaged in unethical conduct.
- (C) The Council Member against whom an allegation of unethical or improper conduct is made shall not participate in the review of the allegation by the Council, consideration by the Tribal Council of whether unethical conduct occurred and appropriate sanction for such conduct, or voting in open session on whether an ethical violation occurred and on an appropriate sanction.



### **39-080. LIMITED WAIVER OF INDIVIDUAL IMMUNITY**

The qualified immunity of individual Tribal Council members alleged to have violated this Chapter is waived to the extent that the Standing Rock Sioux Tribe can pursue an action to recoup any losses it may have incurred in connection with, or as the result of unethical or improper conduct. This provision in no way waives the sovereign immunity of the Standing Rock Sioux Tribe.

### **39-090. SANCTIONS**

The Tribal Council may impose a sanction or sanctions against any Council member who is found to have engaged in unethical conduct under this ordinance. Such sanctions may include, but shall not be limited to the following:

- (A) Reprimand, which is defined as a public censure or condemnation administered by the Tribal Council;
- (B) Restitution or fine;
- (C) Suspension with pay; provided that the suspension shall not exceed three months for any specific violation;
- (D) Removal, provided that a 2/3 majority of the Tribal Council members voting, have voted to authorize removal, pursuant to the Standing Rock Tribal Constitution, Article III, Sections 8 or 11.

### **39-100. APPEALS**

- (A) Any Council Member who is found to have violated this ordinance and against whom sanctions have been imposed by the Council shall have the right to appeal such determination to the Standing Rock Sioux Tribal Court.
- (B) The Tribal Court is hereby granted jurisdiction to hear appeals of the issuance of such sanctions by the Tribal Council. The Tribal Court's jurisdiction in such matters is limited to a determination of whether or not the action taken by the Council was consistent with the Standing Rock Tribal Constitution, Article XI, the Standing Rock Bill of Rights; Article III §§ 8 (Removal of Council Representatives) or 11 (Removal of Tribal Chairman, Vice-Chairman and Secretary); and the Standing Rock Sioux Code of Justice, Title XIX §§ 19-401 - 402.
- (C) The appeal must be filed in the Tribal Court not later than thirty (30) days after the Tribal Council's decision in the matter.

### **39-110. SEVERABILITY**

If any provision of this Chapter is found to be invalid under applicable law, that provision shall be severed from this ordinance and the remainder of the Chapter shall remain in full force and effect.

**39-120. REPEAL OF INCONSISTENT ORDINANCES**

All prior inconsistent ordinances or codes or portions thereof relating to the ethical obligations of Tribal Council Members, the Standards of Conduct for Council Members, and penalties for violating the ethical obligations of Tribal Council Members are hereby repealed when this Code is approved and adopted by the Tribal Council.

**39-130. ADOPTION**

The Tribal Council Ethics Code shall be adopted when approved by resolution by the Standing Rock Sioux Tribal Council. The approval resolution shall be attached hereto.