

WHITE MOUNTAIN APACHE TRIBE
ELECTION CODE

Effective November 12, 2015

**WHITE MOUNTAIN APACHE
ELECTION CODE**

TABLE OF CONTENTS

**CHAPTER ONE
GENERAL PROVISIONS AND DEFINITIONS**

SECTION 1.1	PURPOSE.....	1
SECTION 1.2	SEVERABILITY.....	1
SECTION 1.3	DEFINITIONS.....	1

**CHAPTER TWO
SUPERVISORY BODIES**

SECTION 2.1	TRIBAL ELECTION COMMISSION.....	5
SECTION 2.2	TRIBAL ELECTION PRECINCT COMMITTEES.....	6

**CHAPTER THREE
QUALIFICATION AND REGISTRATION OF VOTERS**

SECTION 3.1	ELIGIBILITY CRITERIA AND CONDITIONS.....	7
SECTION 3.2	VOTER REGISTRATION.....	7
SECTION 3.3	ELIGIBLE VOTERS LIST.....	8
SECTION 3.4	CONFIDENTIALITY OF VOTING PROCESS.....	8

**CHAPTER FOUR
QUALIFICATION AND NOMINATION OF CANDIDATES**

SECTION 4.1	QUALIFICATIONS FOR CHAIRMAN.....	9
SECTION 4.2	QUALIFICATIONS FOR VICE CHAIRMAN.....	9
SECTION 4.3	QUALIFICATIONS FOR TRIBAL COUNCIL MEMBER.....	9
SECTION 4.4	EXCLUSIVE PROCEDURE FOR NOMINATION.....	9
SECTION 4.5	NOMINATION OF CHAIRMAN AND VICE CHAIRMAN.....	9
SECTION 4.6	NOMINATION OF COUNCIL MEMBER CANDIDATES.....	10
SECTION 4.7	SIGNING OF NOMINATION PETITION.....	10
SECTION 4.8	CERTIFICATION OF CANDIDATES.....	11
SECTION 4.9	PREPARATION OF BALLOTS.....	11

SECTION 4.10	CERTIFICATION OF CANDIDATES	12
SECTION 4.11	PREPARATION OF BALLOTS	12

**CHAPTER FIVE
CONDUCT OF ELECTIONS**

SECTION 5.1	ELECTION DATES	14
SECTION 5.2	ELECTION PROCEDURES	14
SECTION 5.3	ABSENTEE VOTING	15
SECTION 5.4	COUNT AND RETURN OF VOTES	20
SECTION 5.5	RECOUNTS; AUTOMATIC AND REQUESTED.....	20
SECTION 5.6	PRIMARY ELECTION RESULTS.....	21

**CHAPTER SIX
CHALLENGES TO ELECTION RESULTS**

SECTION 6.1	WHO MAY CHALLENGE AN ELECTION RESULT	22
SECTION 6.2	GROUNDS FOR CHALLENGES	22
SECTION 6.3	PROCEDURE FOR CHALLENGES	22
SECTION 6.4	CHALLENGE OUTCOME.....	23

**CHAPTER SEVEN
REFERENDUM ELECTIONS**

SECTION 7.1	EXEMPTION FROM REFERENDUM	24
SECTION 7.2	FORM OF PETITIONS	24
SECTION 7.3	CIRCULATION OF PETITIONS AND SIGNATURES	25
SECTION 7.4	SIGNATURES AND VERIFICATION	26
SECTION 7.5	PROCEDURE FOR WITHDRAWING SIGNATURES	27
SECTION 7.6	FILING OF PETITION AND ELECTION	28
SECTION 7.7	VERIFICATION OF ELIGIBLE VOTERS	29
SECTION 7.8	DISPOSITION OF PETITIONS BY BOARD	30
SECTION 7.9	FORM OF BALLOT	31
SECTION 7.10	COUNTING AND CANVASSING VOTES; TRIBAL CHAIRMAN=S PROCLAMATION	32

SECTION 7.11 DEFEAT OF REFERRED MATTER..... 32

SECTION 7.12 REFERENDUM PROCEDURES SUPERSEDED..... 32

SECTION 7.13 CHAPTER THREE OF GOVERNMENT CODE REPEALED..... 32

**CHAPTER EIGHT
VIOLATIONS**

SECTION 8.1 VOTING VIOLATIONS 33

SECTION 8.2 PETITION VIOLATIONS..... 34

SECTION 8.3 GENERAL VIOLATIONS 35

APPENDICES

APPENDIX A-1 Affidavit of Qualifications for Tribal Chairman

APPENDIX A-2 Affidavit of Qualifications for Tribal Council

APPENDIX B-1 Nomination Petition for Chairman

APPENDIX B-2 Nomination Petition for Vice Chairman

APPENDIX B-3 Nomination Petition for Councilmember

APPENDIX C Election Commission Complaint Form

APPENDIX D Application for Referendum Petition Number

APPENDIX E Petition for Referendum

WHITE MOUNTAIN APACHE ELECTION CODE

[NOTE: The Election Code was derived from Chapter 3 of the Government Code through Ordinance No. 208, enacted on May 16, 1997.]

CHAPTER ONE GENERAL PROVISIONS AND DEFINITIONS

[NOTE: Sections 1.1 and 1.3 were amended by Ordinance No. 252, enacted on November 16, 2011.]

SECTION 1.1 PURPOSE

This Code is enacted pursuant to Article VI, Section 8 of the Constitution of the White Mountain Apache Tribe to govern the conduct of all White Mountain Apache Tribe elections, including elections for Tribal Council Chairman, Vice Chairman and Council Members. This Code is to be interpreted and enforced with the goal of maintaining the integrity of the election process and protecting and promoting the rights of the voters of the Tribe to select their leadership and decide matters referred for their decision.

SECTION 1.2 SEVERABILITY

If any provision of this Code, or the application thereof, is held invalid, the remainder of this Code, or other applications of such provision shall not be affected.

SECTION 1.3 DEFINITIONS

In this Code, unless the context otherwise requires:

- A. **ABALLOT@** means a printed paper form containing the name of the candidate or text of a measure in a referendum on which votes are recorded.
- B. **ABALLOT BOX@** means the container in which ballots are deposited after the ballots are voted.
- C. **ACODE@** means the White Mountain Apache Tribe Election Code.
- D. **ACONSTITUTION@** means the Constitution of the White Mountain Apache Tribe.
- E. **ACOUNCIL@** means the Tribal Council of the White Mountain Apache Tribe.

F. ACOUNCIL MEMBER@ means any member of the Tribal Council and, except where the context indicates otherwise, includes the Tribal Council Chairman and Vice Chairman.

G. ADAY@ means a calendar day, unless otherwise indicated.

H. ADEPOSE@ means to make a statement or statements which are written down and sworn to.

I. AELECTED OFFICE@ means the office of Chairman of the Tribal Council, Vice Chairman of the Tribal Council, or Tribal Council Member.

J. AELECTIONEER@ means to work for a political candidate or ballot issue with the intent to solicit votes or other support for the candidate or ballot issue.

K. AELIGIBLE VOTER@ means any enrolled member of the White Mountain Apache Tribe, eighteen (18) years of age or older, who is on the Eligible Voters List. The term Aeligible voter@ has the same meaning as Aeligible voter,@ Aqualified voter,@ Aregistered voter,@ and Athose entitled to vote@ as those terms are used in the Constitution.

L. AELIGIBLE VOTERS LIST@ means the list of Eligible Voters.

M. AIMMEDIATE FAMILY@ means spouse, son, daughter, mother, father, sister, or brother, and includes those of the foregoing who are formally adopted by court order.

N. AKNOWINGLY@, in reference to a violation of this Election Code, means consciously and intentionally; however, it does not require any knowledge of the unlawfulness of the act or admission.

O. AMEMBER@ or AENROLLED MEMBER@ means an enrolled member of the White Mountain Apache Tribe.

P. AMONTH@ means a calendar month unless otherwise indicated.

Q. ANOMINATION APPLICANT@ means a person who seeks to become candidate for elected office, but who has not yet been certified as a candidate.

R. ANOMINATION PETITION@ means the petition to nominate a candidate for the office of Chairman, Vice Chairman, or Council Member of a District.

S. AOATH@ includes affirmation or declaration.

T. APERSON@ includes a corporation, company, partnership, firm, association or society, as well as a natural person. When the word "person" is used to designate the party whose property may be the subject of a criminal or public offense, the term includes the United States, the State of Arizona, the White Mountain Apache Tribe, and any other public or private corporation, or partnership or association which may lawfully own any property. When the word "person" is used to designate the violator or offender of any law, it includes a corporation, partnership or any association of persons.

U. APETITION@ means the forms attached in Appendix B-1, Appendix B-2, Appendix B-3, and Appendix D for the collection of signatures of eligible voters for the nomination of Candidates or to petition for a referendum.

V. APOLL WATCHER@ or **AWATCHER@** means a person designated by a candidate to observe the election process on the day of the election.

W. APOLLING LOCATION@ means a place where voting is held in a Tribal election.

X. APRECINCT@ means the polling place where an eligible voter will be permitted to vote, as established by the Tribal Constitution, and as may be established by the Tribal Council by resolution for each district.

Y. APRECINCT COMMITTEE@ means an Election Precinct Committee appointed by the Election Commission.

Z. APRIMARY ELECTION@ means that election held on the first Wednesday of February of a regular or general election year, to determine the run off candidates for the regular/general election held on the first Wednesday of April of each such election year.

Aa. AREGISTERED MAIL@ includes certified mail.

Bb. AREGISTRAR@ means the Tribal Council Secretary and those persons authorized by the Tribal Council Secretary to register enrolled members 18 years of age or older on the Eligible Voters List.

Cc. AREGISTRATION PERIOD@ means the period when enrolled members 18 years of age or older may become registered on the Eligible Voters List.

Dd. AREGULAR ELECTIONS@ means those elections required by Article VI, Section One of the Tribal Constitution, to be held every two years on the first Wednesday in April for Council Members, and every four years for Chairman and Vice Chairman, on the same day noted herein for Council Members. The term "General Election" may be used interchangeably with the term "Regular Election" for purposes of carrying out this Election Code.

Ee. **ARESERVATION@** means the Fort Apache Indian Reservation of the White Mountain Apache Tribe.

Ff. **ARESIDE@** means to have a residence.

Gg. **ARESIDENCE@** means a person's place of abode where the person intends to remain for an undetermined period, having no present intention of removal from that place and to which, when he or she is absent, he or she intends to return.

Hh. **ARESIDENT@** means any tribal member who lives in a residence within the Fort Apache Indian Reservation. For the limited purposes of registering to vote, voting, and signing nomination petitions, a person does not lose his or her resident status solely by his or her absence from the Reservation. Such absence, however, would render the person ineligible to become a candidate for elected office, until the person returns to and lives in a residence within the Reservation.

Ii. **ARESIDENT ELIGIBLE VOTER@** means an Eligible Voter who is registered to vote in a District. When used in reference to the election or nomination of the Tribal Council Chairman or Vice Chairman, the term means an eligible voter residing anywhere within the Reservation.

Jj. **ASIGNATURE@** includes a mark, made by a person who cannot write, with his or her name written near it, and witnessed by a person who writes his or her own name as witness.

Kk. **ATRIBAL ELECTION@** means elections of the White Mountain Apache Tribe, including general and primary elections and referendum elections. The term does not include any federal election, including a Secretarial election called to amend the Constitution, nor does it include any state or county election, or other election not provided for in the Constitution.

Ll. **ATRIBAL ELECTION COMMISSION@ or **AELECTION COMMISSION@** or **ACOMMISSION@**** means the nine member Commission appointed by the Tribal Council to administer all elections of the White Mountain Apache Tribe pursuant to this Code.

Mm. **ATRIBE@** means the White Mountain Apache Tribe of the Fort Apache Indian Reservation, a federally recognized Indian tribe.

Nn. **AVOTER CENSUS NUMBER@** means the number on record with the Tribal Council Secretary's Office which has been assigned to an Eligible Voter and which appears as such on an Eligible Voter=s registration card.

Oo. **AVOTING DISTRICT@ or **ADISTRICT@**** means those voting districts established pursuant to Article III, Section 2 of the Constitution of the White Mountain Apache Tribe.

CHAPTER TWO SUPERVISORY BODIES

[NOTE: Sections 2.1 and 2.2 were amended by Ordinance No. 252, enacted on November 16, 2011.]

SECTION 2.1 TRIBAL ELECTION COMMISSION

A. Composition. The Tribal Election Commission shall be composed of nine (9) members, appointed by the Tribal Council, who shall be responsible for administering all elections of the White Mountain Apache Tribe. The Commission shall serve from the day of appointment until six (6) months following the general election or for such term as designated by the Council. The Commission shall elect from its own membership a chairman and other officers as deemed necessary. No elected official of the Tribe, candidate for elected office or person who seeks to become a candidate for elected office, or immediate family member of an elected official, candidate or person who seeks to become a candidate for elected office shall serve on the Election Commission.

B. Authority and Responsibility. The Commission shall exercise independent judgment in order to uphold the impartiality and integrity of the election process. In so doing, the Commission shall have the authority to undertake the following:

1. With Tribal Council approval, promulgate rules and regulations not inconsistent with this Code, concerning any matter within its jurisdiction. After approval by the Tribal Council, such regulations shall have the force and effect of law of the White Mountain Apache Tribe.
2. Review the qualifications and disqualify any candidate who does not meet the qualifications established by the Constitution for the office sought.
3. Maintain a list of eligible voters of the Tribe.
4. Exercise all reasonable powers necessary for conducting all Tribal elections, for referendum matters and the resolution of election disputes.
5. Appoint and supervise Precinct Committee members and provide them with proper instructions for performing their duties.
6. Prepare and be responsible for the safekeeping of the official ballot or ballots.
7. Enforce this Election Code and rules and regulations promulgated pursuant thereto.

C. Commission Conduct. Members of the Commission shall not be permitted to circulate, or assist in the circulation of, petitions for the nomination of any candidate or matter for referendum and shall not engage in other conduct which would be inconsistent with a Commission Member=s duty of fairness and impartiality.

SECTION 2.2 TRIBAL ELECTION PRECINCT COMMITTEES

A. Composition.

Election Precinct Committees shall be appointed by the Commission. Each Election Precinct Committee shall consist of a Judge, one or more Marshals, two or more Clerks as determined necessary by the Commission, and alternates as necessary. No elected official of the Tribe, candidate for elected office of the Tribe, or immediate family member of an elected official or candidate shall serve on an Election Precinct Committee. One Precinct Committee will be appointed for each Polling Location.

B. Authority and Responsibility.

The Election Precinct Committees shall conduct elections at the voting places in each voting district and shall be empowered to carry out and enforce all rules and regulations promulgated and delegated by the Commission for the orderly and fair conduct of all elections.

CHAPTER THREE
QUALIFICATION AND REGISTRATION OF VOTERS

[NOTE: Sections 3.1, 3.2, 3.3 and 3.4 were amended by Ordinance No. 252, enacted on November 16, 2011.]

SECTION 3.1 **ELIGIBILITY CRITERIA AND CONDITIONS**

- A. Any eligible voter shall be permitted to vote in Tribal elections.
- B. An eligible voter may vote for a Tribal Council candidate only in the District in which the voter is registered to vote.

SECTION 3.2 **VOTER REGISTRATION**

A. The Election Commission shall maintain a permanent roll of eligible voters, and shall open the roll for voter registration during all business hours, beginning the day after each Tribal election and continuing until thirty (30) days prior to the date of the next election.

B. While the roll is open any person, upon proving to the Election Commission, or designated registrar, that he or she is an enrolled member eighteen (18) years of age or older, shall be permitted to register. The Election Commission or Registrar has the authority to preregister those persons whose eighteenth (18th) birthday occurs between the close of registration and the day of the election. A person may register only in the district in which he or she has been a resident for at least one hundred twenty (120) days prior to registration. If a person's residence cannot be determined based on the criteria in this Code, the person shall be registered in the district where the seat of tribal government is located.

C. The Commission or designated registrar shall issue to all eligible voters a registration card which shall be in two (2) segments, each bearing the identical information. The Commission shall retain one (1) segment for its records and the other segment shall be given to the eligible voter. The registration card shall bear the following information concerning the voter:

- 1. Name;
- 2. Voter census number;
- 3. Date of birth;
- 4. Home address;
- 5. Polling place where the person will be permitted to vote; and

6. Other pertinent information as may reasonably be required by the Election Commission.

D. Decisions on voter registration requests may be appealed by the applicant in writing to the Election Commission at least thirty (30) days prior to the next election. The Election Commission must rule on the appeal within sixty (60) days of receipt of the appeal, but in any event, no later than twenty (20) days prior to an election. All decisions of the Election Commission shall be final.

SECTION 3.3 ELIGIBLE VOTERS LIST

A. The Election Commission shall maintain a list of eligible voters for each District. At the close of any voter registration period, and at other times on a periodic basis, the Commission shall prepare and certify the Eligible Voters list. The Eligible Voters list shall be posted at the polling location of the District at least ten (10) days prior to the election and a copy submitted to the Council at the same time.

B. The current lists of eligible voters are accepted as they now exist. All new registration of voters or changes of registration must meet the criteria established by this Chapter.

SECTION 3.4 CONFIDENTIALITY OF VOTING PROCESS

All voting shall be conducted by secret ballot. No procedure or regulation authorized by this Code shall be interpreted or enforced in a way which would compromise the confidentiality of a voter=s ballot. Voting records may not be used for any purpose outside the scope of this Code, except as needed to compile a list of persons eligible for jury duty, or, subject to Tribal Council approval, for voter registration in a federal, state, or other public election, or for a purpose authorized by court order.

CHAPTER FOUR
QUALIFICATION AND NOMINATION OF CANDIDATES

[NOTE: Sections 4.4, 4.5, 4.6, 4.7 and 4.9 were amended by Ordinance No. 252, enacted on November 16, 2011; Sections 4.5, 4.6, 4.8, 4.9, 4.10 and 4.11 were amended by Ordinance No. 259, enacted May 16, 2013; and Section 4.8 and 4.9 were amended by Ordinance No. 278, enacted November 12, 2015.]

SECTION 4.1 **QUALIFICATIONS FOR CHAIRMAN**

Any candidate for the office of Chairman must be a member of the Tribe, reside on the Reservation and meet all the qualifications set forth in Article III, Section 7 and Article XII of the Constitution.

SECTION 4.2 **QUALIFICATIONS FOR VICE CHAIRMAN**

The qualifications for any candidate for the office of Vice Chairman shall be the same as for the office of Chairman.

SECTION 4.3 **QUALIFICATIONS FOR TRIBAL COUNCIL MEMBER**

The qualifications for candidates for Chairman, Vice Chairman and Council members shall be those established in Article XII of the Tribal Constitution, except that the Chairman and Vice Chairman candidates need only be residents of the Fort Apache Indian Reservation.

SECTION 4.4 **EXCLUSIVE PROCEDURE FOR NOMINATION**

This Chapter shall govern the nomination of candidates for election to the Tribal Council and no other method of nominating candidates shall be allowed, and no person may become a candidate for elected office except by compliance with the nomination procedures set forth herein. No write in candidates shall be allowed and no person shall be a candidate for more than one elected office in the same election.

SECTION 4.5 **NOMINATION OF CHAIRMAN AND VICE CHAIRMAN**

A. Any person who seeks to become a candidate for the office of Chairman or Vice Chairman must complete and submit to the Commission, an affidavit, which shall be substantially the same form as shown in Appendix A-1, to demonstrate that he or she possesses the qualifications for the office sought. After making a preliminary verification of the qualifications from the affidavit, subject to final verification as provided in Section 4.8, the Commission shall issue nomination petitions to the nomination applicant which shall be substantially the same form as shown in Appendix B-1 and B-2. The affidavit and nomination petition forms shall be released to the nomination applicant only, and not to any person acting on behalf of any nomination applicant and shall be available not sooner than sixty (60) days before the primary election.

B. Not less than fifty (50) days before the primary election, the nomination applicant shall present nomination petitions signed by at least five percent (5%) of the resident eligible voters to the Tribal Council Secretary, or to the Tribal Chairman, or in his absence, to the Vice Chairman.

SECTION 4.6 NOMINATION OF COUNCIL MEMBER CANDIDATES

A. Any person who seeks to become a candidate for the office of Tribal Council member must complete and submit to the Commission, an affidavit, which shall be substantially the same form as shown in Appendix A-2, to demonstrate that he or she possesses the qualifications for the office sought. After making a preliminary verification of the qualifications from the affidavit, subject to final verification as provided in Section 4.8, the Commission shall issue nomination petitions to the nomination applicant which shall be substantially the same form as shown in Appendix B-3. The affidavit and nomination petition forms shall be released to the nomination applicant only, and not to any person acting on behalf of any nomination applicant and shall be available not sooner than sixty (60) days before the primary election.

B. Not less than fifty (50) days before the primary election, the nomination applicant shall present nomination petitions signed by at least five percent (5%) of the resident eligible voters of the district in which the nomination applicant seeks to be a candidate to the Tribal Council Secretary, or to the Tribal Chairman, or in his absence, to the Vice Chairman.

SECTION 4.7 SIGNING OF NOMINATION PETITION

A. Each resident eligible voter shall be permitted to sign only one nomination petition for the same elected office unless more than one candidate is to be elected from the district to such office, and in that case, not more than the number of nomination papers equal to the number of candidates to be elected from the district to the office. Signatures of persons in violation of this Section shall be disregarded in determining the validity of the nomination petitions, however, nothing in this Section shall prohibit a resident eligible voter from signing one nomination petition for the office of Chairman and one for the office of Vice Chairman.

B. A nomination petition for Council members may be signed only by the resident eligible voters of the district in which the candidate is seeking office. A nomination petition for the office of Chairman and Vice Chairman may be signed by any resident eligible voter regardless of his or her district residency. Nomination petition forms shall be prepared and provided by the Tribal Council Secretary which shall be substantially the same forms as shown in Appendix B-1 (Chairman), Appendix B-2 (Vice Chairman), and Appendix B-3 (District Council Members).

C. Circulators of nominating petitions shall be eligible voters of the Tribe and shall sign the affidavit which shall be substantially the same forms as shown in Appendix

B-1, Appendix B-2, and Appendix B-3 on the back of each nomination petition they circulate.

SECTION 4.8 COMMISSION FINDINGS

A. The Commission shall review the signed petitions, the affidavit and all required application materials to determine whether each nomination applicant meets the requirements under this Chapter. The Commission shall issue its findings not later than thirty-five (35) days before the primary election.

B. Upon the written request of a nomination applicant, the Commission shall allow the nomination applicant to review his/her signed nomination petitions, application materials and the Commission's written record of review, if any, but excluding any privileged documentation. The applicant shall be permitted to obtain copies of the documentation at the applicant's expense.

C. A final Commission finding on the eligibility of any nomination applicant for certification by the Tribal Council may be challenged in Tribal Court only as permitted by Section 4.9.

SECTION 4.9 CHALLENGES TO COMMISSION FINDINGS

A. A challenge may be brought against a final Commission finding on eligibility by a nomination applicant who was found ineligible or by an applicant who was found eligible, but who challenges a finding of eligibility of another applicant to be certified as a candidate for the same office. No other person may bring an action to challenge Commission findings.

B. A challenge must be filed with the Tribal Court not later than 5:00 p.m. of the second day after the issuance of the Commission finding, not including weekends or Tribal holidays, and be accompanied by a cash bond of Five Hundred Dollars (\$500.00). The challenge must identify the Commission action which is alleged to violate this Code and the specific legal basis for such claim. The challenge must also demonstrate how the challenger has been harmed by such action. A copy of the challenge and proof of bond payment must be filed with the Commission within the same forty-eight (48) hour period. The Tribal Court shall dismiss the challenge without hearing if it does not conform in full with the requirements of this Section.

C. If the challenge conforms in full with the requirements of this Section, the Tribal Court shall schedule a hearing on the matter to occur within five (5) days after the filing of the action, including weekends, but excluding Tribal holidays. The hearing may not be continued for any reason. The Commission, the challenger, and any other applicant found eligible to run for the same office shall be parties in the matter.

D. For a challenge brought by a nomination applicant concerning his or her own application, the Tribal Court review shall be limited to the information which was provided by the applicant to the Commission within the time period required by this

Chapter, including signed nomination petitions and applicant materials, plus the Commission's own record of review and deliberation. For a challenge brought by an eligible applicant against another applicant, in addition to the foregoing, the Tribal Court review may include other evidence directly relevant to the challenged applicant's eligibility. Prior to the hearing, a party may file a request with the Court to inspect nomination records. The request shall specify the records to be inspected and reason why such inspection is needed. Upon a finding of good cause for the request, the Court will authorize an inspection of the specified records. The inspection shall take place in the presence of all parties and the legal custodian of the records.

E. The Tribal Court authority shall be limited to affirming or overturning the Commission finding, and the Court shall affirm such finding unless it concludes that the finding is contrary to law, arbitrary and capricious, or an abuse of discretion. The Tribal Court shall have no authority to order any other relief or to award costs to any party, other than the forfeiture of bond funds deposited by a losing challenger in the amount needed to pay attorney fees and costs. The Tribal Court shall issue its written decision, which shall contain findings of fact and conclusions of law, not later than 5:00 p.m. of the day following the scheduled day of the hearing.

F. The Commission shall be bound by the Tribal Court decision in providing its findings to the Tribal Council if such decision is made in conformity with the requirements of this Section. No jurisdiction is vested in the Tribal Court over any matter under this Chapter except as expressly provided herein, and in no event shall the jurisdiction of the Tribal Court under this Section be construed to extend to the Tribal Council or to other officials or representatives of the Tribe, or to alter the election schedule established in the Constitution.

SECTION 4.10 CERTIFICATION OF CANDIDATES

All persons found by the Commission to meet the requirements of this Chapter shall be certified by the Tribal Council as a candidate for the office indicated in the nomination petitions, following the period for Tribal Court review authorized in Section 4.9. If there is a question regarding a candidate's fluency in Apache, a committee of elders, designated by the Tribal Council, will determine whether the candidate is fluent in the Apache language. It shall be the duty of the Tribal Council Secretary to post the names of all certified candidates in a public place at least ten (10) days prior to the primary and general elections.

SECTION 4.11 PREPARATION OF BALLOTS

A. Paper ballots upon which are printed the names of the candidates shall be used in the tribal elections. The printing of the ballots shall take place as soon as possible after all candidates have been certified by the Tribal Council. The upper portion of the ballot shall contain the name of the candidates for Chairman, Vice Chairman and members of the Tribal Council, as the case may be. The ballots shall be numbered consecutively and provided in consecutive numbers to each precinct. It shall be the responsibility of the Tribal Council Secretary to prepare the ballots.

B. An adequate supply of ballots plainly marked, "Sample Ballots", and printed on a paper of different color from that of the ballots prepared for voting purposes shall be distributed and shall be posted in public places in each precinct to acquaint voters with the ballot and voting procedures.

CHAPTER FIVE CONDUCT OF ELECTIONS

[NOTE: Section 5.3 of the Election Code was revised by Ordinance No. 243, enacted on March 16, 2010;
Sections 5.2, 5.3, 5.4, and 5.5 were revised by Ordinance No. 252, enacted on November 16, 2011;
and Section 5.1 was revised by Ordinance No. 263, enacted on November 1, 2013.]

SECTION 5.1 ELECTION DATES

The following dates are the official dates for Tribal elections:

A. Registration of Voters. The last day to register to vote shall be the 30th day before any election.

B. Filing of Nominating Petitions. Candidates may file nominating petitions for office from the sixtieth (60th) day prior to the primary, through the fiftieth (50th) day prior to the primary election. Nominating petitions must be returned to the Tribal Council Secretary by the close of business on the fiftieth (50th) day prior to the primary election day. No petitions or supplement to filed petitions shall be accepted after that date.

C. Primary Election. The Primary Election shall be held on the first Wednesday of February of the election year. No Primary Election shall be conducted for a particular Council office if only two (2) or fewer candidates are seeking that office. In each district that elects two (2) Council Members, no primary election shall be conducted if only four (4) or fewer candidates are seeking those two (2) council seats.

D. General or Regular Election. The General or Regular Election shall be held on the first Wednesday of April of the election year.

E. Special Election. Special elections shall be called by the Council as required by Article VIII (Referendum), and Article X (Secretarial Elections), of the Tribal Constitution.

F. Oath of Office. Members of the Council shall take office on the first Wednesday of the first month after their election.

SECTION 5.2 ELECTION PROCEDURES

A. Voting places and hours; notice. An eligible voter may vote only in the District where registered and only at the polling location designated in the voter=s registration card. Polling locations shall be designated by the Election Commission with Council approval, and shall be open during the hours of 6:00 a.m. to 7:00 p.m. Mountain Standard Time on the day of the election. The Election Commission shall announce all elections by special notice posted at least fifteen (15) days before the election at the voting places and other convenient public places.

B. Manner of voting generally. Voting shall be by secret ballot. Voters may vote for only one candidate for each open elected position. Except as otherwise provided, any eligible voter may vote by appearing at the voter's prescribed polling location, announcing to the Election Precinct Committee his or her name and address, signing the ballot sign out sheet, and by marking and placing in the ballot box the ballot which shall be handed to the voter. The Election Precinct Committee may ask for proof of identification, such as a voter=s registration card or drivers license, before permitting the eligible voter to vote.

C. Electioneering. No person shall be allowed to electioneer within two hundred (200) feet of the entrance to any polling location while an election is in progress, nor shall any person, except election officials and other persons authorized by law, be allowed to approach the ballot box while an election is in progress or remain within fifty (50) feet of the polling place except while actually voting. No written or printed material other than that provided by the Election Commission shall be publicly placed or exposed on public or private property within two hundred (200) feet of the entrance to any polling location while an election is in progress.

D. Voting by person with physical disabilities or language barriers. If a voter presents himself and states that he or she, because of a physical disability or language barrier, is unable to mark the ballot, assistance shall be provided by at least two (2) members of the Election Precinct Committee or Election Commission. At the request of the voter, a member of the voter=s family may also be present to assist the voter.

E. Poll watchers. Candidates for the office of the Chairman, Vice Chairman, and each candidate for the Council may submit in writing two (2) names each as their respective designated watchers at each polling location. No candidate for any elected office of the White Mountain Apache Tribe shall be a watcher. Watchers are prohibited from conversing with voters and Election Precinct Committee members and shall be restricted to a location from which voters cannot be intimidated by their presence. Any disruption by watchers will be cause for their removal from the polling place. Poll watchers are to remain only in designated areas.

SECTION 5.3 ABSENTEE VOTING

A. Conditions for Voting by Absentee Ballot.

Only the following persons may vote by absentee ballot:

- 1.** An eligible voter who lives more than one hundred (150) road miles from Whiteriver, Arizona; or
- 2.** An eligible voter who lives within one hundred fifty (150) road miles of Whiteriver, Arizona, who is a resident of a nursing home, hospital or

other long term care facility accredited by a federal agency or the local, tribal, or state jurisdiction in which it is located, and due to health reasons in unable to travel to the polling location.

B. Request for ballot.

1. An eligible voter who satisfies the conditions of Subsection A may request an absentee ballot by either coming in person to the office of the Tribal Council Secretary and submitting a request in writing, or by sending a letter by U.S. Mail to the Election Commission, identifying himself or herself using the name under which he or she is registered and the district in which he or she is registered. The absentee ballot will be mailed out to a post office box number or to a physical address (via certified or registered mail) where the applicant signs for his or her absentee ballot. Except for ballots sent to residents in a facility specified in Section 5.3 A. (2), no more than five (5) absentee ballots will be mailed to one post office box number or physical address. Absentee ballots may not be sent by general delivery.

2. The applicant for an absentee ballot shall complete and sign the application before a Notary Public. The Notary Public before whom the applicant completes the application shall impress his or her official seal on the application. Any person unable to sign the application shall sign his or her mark and have the application signed by a witness. Applications for absentee voter ballots shall be mailed to the Election Commission.

3. Requests for absentee ballots shall be accepted until seven (7) days prior to Election Day.

4. All applications for absentee ballots shall be consecutively numbered by the Election Commission.

5. Any eligible voter who receives an absentee ballot who does not complete and mail the ballot, but instead wishes to cast his or her vote in person, must first surrender his or her absentee ballot to the Election Precinct Committee of his or her district on Election Day.

6. Any eligible voter who desires an absentee ballot for both Primary and General Elections must request an absentee ballot prior to each election.

C. Mailing of documents to applicant.

I further certify that the Affiant exhibited the enclosed ballot to me unmarked. Then, in my presence, the Affiant personally and privately marked such ballot in such a manner that neither I, nor any other person, was able to see the Affiant vote, or it was marked by me according to the Affiant's instructions and enclosed and sealed in this envelope. While marking the ballot, the affiant was not solicited or advised by any person to vote for or against any candidate or measure.

Notary Public or Commission Member

F. Receipt of voter's ballot.

Upon receipt of the envelope containing the absentee ballot and the completed application, the Election Commission shall compare the signatures thereon with the signatures of the voter on the voter's affidavit of registration. If satisfied that the signatures correspond and that the application and the affidavit are sufficient, the Election Commission shall hold them unopened in accordance with the rules and regulations of the Election Commission.

G. Casting absentee ballot.

1. The Election Commission shall as provided by this Section, tabulate separately for each District the absentee ballots which have been received. The Commission shall check the voter's application and the voter's affidavit on the envelope containing the absentee ballot. If these are found to be sufficient, the Commission shall check the voter's name on the precinct register. If the Commission then finds that the applicant is an eligible voter of the District, the vote shall be allowed. If the application or the affidavit is insufficient, or if the applicant is not an eligible voter of the District, the vote shall not be allowed. Enclosing an application in error with a ballot shall not void the absentee ballot.

2. If the vote is allowed, the Commission shall open the envelope containing the ballot in such a manner that the affidavit thereon is not destroyed, take out the ballot without unfolding or permitting it to be opened or examined, endorse the stub in the same manner that the other ballots are endorsed, deposit the ballot only in the ballot box and retain the envelope in which it was enclosed in accordance with Section 5.3G, and show by the records of the election that the voter has voted.

3. If the vote is not allowed, the affidavit envelope containing the absentee ballot shall not be opened and the Commission shall mark across the face of such envelope the grounds for rejecting the ballot. The affidavit envelope with its contents shall then be deposited with the open affidavit envelopes and shall be preserved with official returns.

H. Retention of materials.

All material used for procuring and casting an absentee ballot shall remain under the Election Commission's control for a period of one (1) year after the day of the election.

SECTION 5.4 COUNT AND RETURN OF VOTES

A. The ballots cast shall be counted and tallied by the Election Precinct Committee beginning at 7:00 p.m. Mountain Standard Time or immediately after voting is completed on the day of the election. Results of the voting shall be made by certified return by the Election Precinct Committee and delivered to the Election Commission. A copy of the return shall be posted at the voting place. The Election Commission shall immediately prepare a consolidated return of the election results and post said results at the election headquarters.

B. After counting, all ballots shall be placed in ballot boxes, locked, marked with the name and voting place and the date of the election by the Election Precinct Committee. All unused, spoiled or rejected ballots shall be labeled and placed in the ballot box. The locked ballot boxes containing all ballots shall be immediately returned by the Judge and at least one other precinct committee official to the Election Commission.

C. The Election Commission shall certify all elected candidates to the Tribal Council, provided a challenge to election results or request for recount or automatic recount has not been filed. Certification of a candidate in question will be made following the determination of the challenge or recount, as the case may be. On the day following the election, a meeting shall be called by the Tribal Council for the purpose of certification of the election.

D. The Election Commission shall store the ballots in such a manner that will insure the safekeeping of said ballots for a period of one (1) year.

SECTION 5.5 RECOUNTS; AUTOMATIC AND REQUESTED

A. Automatic Recount. If the tally shows that the vote cast for the two (2) candidates for an office with the highest vote is tied, or if the highest vote is greater than the next highest vote by less than one percent (1%) of the votes cast for that office, there shall be an automatic recount.

B. Request for Recount. Only candidates for office may ask for a recount and only for the office that he or she sought. A candidate requesting a recount shall file a written petition with the chairman of the Tribal Election Commission. An advance fee to cover costs of the recount of One Hundred Dollars (\$100.00) per polling location will be charged the candidate requesting the recount, and must accompany the written petition. Payment shall be by cashier's check or money order only. No personal

checks will be accepted. The time limit for filing a request for a recount shall expire five (5) calendar days after the Election Commission's certification of election results. Recounts shall be conducted by the Tribal Election Commission.

C. Recount candidates shall not be certified by the Commission to the Tribal Council until the recount is completed. The Tribal Council shall certify all other elected candidates not affected by the results of a recount.

D. Referendum Election. An automatic recount pursuant to 5.5A shall be applicable to all referendum elections. Any eligible voter of the Tribe may request a recount, in a referendum election, in accordance with Section 5.5B.

SECTION 5.6 PRIMARY ELECTION RESULTS

A. The candidate receiving the highest number of votes for Chairman, Vice Chairman, and Tribal Council Member and the candidate receiving the next highest number of votes for Chairman, Vice Chairman, or Tribal Council Member, shall be the candidates for Chairman, Vice Chairman, and Tribal Council Member in the general election.

B. In any district that elects only one (1) council member, the two (2) candidates receiving the highest number of votes in the primary election shall be the candidates for council member in the general election.

C. In any district that elects two (2) council members in the same election, the four (4) candidates receiving the highest number of votes in the primary shall be the candidates for council member in the general election.

CHAPTER SIX CHALLENGES TO ELECTION RESULTS

[NOTE: Sections 6.3 and 6.4 were revised by Ordinance No. 252, enacted on November 16, 2011.]

SECTION 6.1 WHO MAY CHALLENGE AN ELECTION RESULT

Only a candidate, and no other person, may challenge the correctness of the announced results of an election in which that candidate ran for elected office and then only for the office that he or she sought. Any eligible voter, and no other person, may challenge the correctness of the announced results of a referendum election. All challenges must strictly comply with all applicable provisions of this Chapter.

SECTION 6.2 GROUNDINGS FOR CHALLENGES

A. Allegations of Fraud. An election result may be challenged on the basis of an allegation of fraud if the candidate, or any person authorized to act for such candidate, whose right to the office is contested, has given to a voter, election judge or election clerk a bribe or reward, or has offered such bribe or reward for the purpose of procuring his or her election. The act complained of must have occurred at a polling location, or in the casting of an absentee vote. The complaint must identify the specific polling location or other location, or if in the casting of absentee ballots wherein such fraud occurred, the specific act constituting such alleged fraud and the names of the alleged perpetrators of such fraud.

B. Allegations of Irregularities other than Fraud. An election result may be challenged on the basis of an allegation of irregularities other than fraud if such challenge alleges a sufficient number of irregularities and of such a nature that:

1. The outcome of the election would have been contrary to the reported result; or
2. Proves that it is impossible to determine with mathematical certainty which candidate is entitled to be certified as elected, or in an election concerning a referendum, that the outcome of the election is impossible to determine with mathematical certainty.

SECTION 6.3 PROCEDURE FOR CHALLENGES

A. Challenges must be filed in writing under oath with the Election Commission on the complaint form provided by the Election Commission and which shall be substantially the same form as shown in Appendix C within five (5) calendar days following the certification of the election by the Commission. The challenge must provide the necessary information required by Section 6.2 and be accompanied by a cash bond of Five Hundred Dollars (\$500.00).

B. Upon receipt of a challenge the Election Commission shall review the challenge for complete compliance with this Chapter and if in compliance, shall forward the petition to the Chief Judge of the Tribal Court, or such other judge as the Chief Judge may assign. The Election Commission shall file a response or answer on or before the hearing date set by the Court. The judge shall hear and determine said issue without delay or continuance of more than five (5) days. On the day of the hearing, the challenged candidate may file an answer to such petition or may file a cross-petition, setting forth in detail, as required of a petitioner herein, such cross claims of fraud. A copy of the Judge=s judgment and decision shall be furnished to the Election Commission.

C. The person or persons challenging the election results must prove by clear and convincing evidence that the Election Commission violated the Election Ordinance or otherwise conducted an unfair election and that the outcome of the election would have been different.

SECTION 6.4 CHALLENGE OUTCOME

A. Challenges based on Fraud. If fraud is proven on the part of a candidate, such candidate shall be declared ineligible for the office for which he or she was a candidate and a new election shall be conducted for the office. Except for the candidate who is declared ineligible, all other persons who were certified as candidates are entitled to run in the election. In all cases where a petition is filed which alleges fraud, but after a hearing said allegations are not proven by clear and convincing evidence, the contestant shall be civilly liable in damages to the challenged candidate or Election Commission for all damages sustained, including reasonable attorney fees and all reasonable and proper costs of conducting such contest. The bond shall be forfeited to the extent necessary to pay attorney fees and costs.

B. Challenges based on Irregularities other than Fraud. If the challenger is able to prove a sufficient number of irregularities such that it is impossible to determine with mathematical certainty which candidate is entitled to be certified as a candidate or to have his or her name appear on the runoff ballot, or in an election concerning a proposed measure or issue, prove that the outcome of the election is impossible to determine with mathematical certainty, the judge shall notify the chairman of the Election Commission of same. It shall then be the duty of the Election Commission Chairman to notify the Tribal Council of said decision. The Council shall then order a new election as soon as is practical in the same manner as the contested election, with the identical candidates or issues; provided that any candidate upon whom fraud has been proven shall not be a candidate in the new election.

**CHAPTER SEVEN
REFERENDUM ELECTIONS**

[NOTE: Sections 7.4, 7.6, 7.7, 7.8, 7.9, 7.10, 7.11, 7.12, 7.13, 7.14, 7.15, 7.16, 7.17, and 7.18 were revised by Ordinance No. 252, enacted on November 16, 2011.]

SECTION 7.1 EXEMPTION FROM REFERENDUM

No ordinance, resolution or candidate election previously submitted to popular vote shall be subject to referendum under this Chapter. These regulations shall be the exclusive procedures for referendum elections.

SECTION 7.2 FORM OF PETITIONS

The form for referring to the Tribal people by referendum petition an enacted or proposed ordinance or Tribal Council resolution, or portion thereof, shall be provided by the Election Commission and shall be substantially as follows:

PETITION FOR REFERENDUM

To the White Mountain Apache Tribal Election Commission:

We, the undersigned enrolled members and eligible voters of the White Mountain Apache Tribe of the Fort Apache Indian Reservation, respectfully order that Tribal Ordinance No. _____; or Tribal Resolution No._____, entitled (title of ordinance or resolution number, and if the petition is against less than the whole ordinance or resolution, then set forth here the item, section, or part on which the referendum is used), proposed or adopted by the Tribal Council on _____, shall be referred to a vote of the eligible voters of the White Mountain Apache Tribe at a special election for their approval or rejection and each for himself says:

I have personally signed this petition with my first and last names. I have not signed any other petition for the same measure. I am an eligible voter of the White Mountain Apache Tribe of the Fort Apache Indian Reservation.

WARNING:

It is a criminal offense for any person to knowingly sign a referendum petition with a name other than his or her own, except in a circumstance where he or she signs for a person, in the presence of and at the specific request of such person, who is incapable of signing his or her own name because of physical

infirmary, or to knowingly sign his or her name more than once for the same measure, or to knowingly sign such petition when he or she is not an eligible voter.

Signature _____

Name _____
(first and last name printed)

Voter Census Number _____

Address _____

Date Signed _____

(The lines for signatures which shall be numbered)

The validity of signatures on this sheet must be sworn to by the circulator before a notary public on the form appearing on reverse side.

Election Commission Referendum Number _____

SECTION 7.3 CIRCULATION OF PETITIONS AND SIGNATURES

A. A person or organization intending to file a referendum petition shall, before receiving said petition forms from the Commission, file with the Tribal Election Commission an application provided by the Commission which shall be substantially the same form as shown in Appendix D, setting forth his or her name, or, if an organization, its name and the names and titles of its officers, address, his or her intention to circulate and file a petition, and the text of the proposed ordinance or resolution or portion thereof, to be referred, and applying for issuance of an official number to be printed in the lower right hand corner of both sides of the signature sheets of the petition.

B. On receipt of the application, if the matter to be referred in the application is not in conflict with the Tribal Constitution, the Commission shall within five (5) working days assign a number to the petition, which number shall appear on the face of each copy thereof, and issue that number and petition forms which shall be substantially the same form as shown in Section 7.2 and Appendix E to the applicant. Numbers shall be assigned to petitions by the Commission in numerical sequence and in the order of filing applications, and a record shall be maintained in the Tribal Council Secretary's office of each application received and of the number assigned and issued to the applicant.

C. The Commission shall print and shall furnish to each applicant, at the time it issues the number, a copy of the text of this Chapter governing referendums.

D. The petitions must be filed with the Commission no later than ninety (90) calendar days after the Commission issues its official number for the petitions. Petitions filed after ninety (90) calendar days shall not be considered.

SECTION 7.4 SIGNATURES AND VERIFICATION

A. Any eligible voter of the Tribe may sign a referendum petition upon any enacted or proposed ordinance or resolution of the Tribal Council which he or she is legally entitled to vote upon. Every eligible voter signing a petition shall do so in the presence of the person circulating the petition and who is to execute the affidavit of verification. At the time of signing, the eligible voter shall sign his or her first and last names in the spaces provided and the voter so signing or the person circulating the petition shall print his or her first and last names and write, in the appropriate spaces following the signature, the signer's voter census number, residence address, giving street and number, if any, and his or her post office address. The voter so signing or the person circulating the petition shall write, in the appropriate spaces following the voter's address, the date on which the voter signed the petition.

B. The person before whom the signatures and addresses were written on the signature sheet shall on the affidavit form pursuant to this section, subscribe and swear before a notary public, that each of the names on the sheet was signed and the name and address was printed in the presence of the voter and the circulator on the date indicated, and that in his or her belief each signer was an eligible voter of the Tribe. All signatures of petitioners on a signature sheet shall be those of eligible voters who are registered to vote in Tribal elections. The absence of a printed name shall invalidate that signature. Signature and handwriting comparisons may be made.

C. The affidavit shall be printed on the reverse side of each signature sheet on a form provided by the Election Commission and shall be substantially as follows:

Affidavit of Circulator

State of Arizona)
) ss:
County of _____)

I, (print name), an eligible voter of the White Mountain Apache Tribe, under the penalty of law, depose and say that each individual signed this sheet of the foregoing petition in my presence on the date indicated, and I believe that each signer's name and residence address or post office address are correctly stated, and that each signer is an eligible voter of the White Mountain Apache Tribe and that at all times during the circulation of this signature sheet a copy of the title and text of the referred ordinance or resolution was attached to this signature sheet.

Signature of Circulator _____

Voter Census Number _____

Address

District where registered _____

If registered at a different address at any time during circulation of this sheet,
former address of affiant _____

SUBSCRIBED AND SWORN to before me this ____ day of
_____, 20____.

Notary Public or Election Commission Member

My Commission Expires:

Election Commission Referendum Number _____

SECTION 7.5 PROCEDURE FOR WITHDRAWING SIGNATURES

A. An eligible voter who has signed a referendum petition may, by executing and filing with the Commission an affidavit in the form prescribed by this Section within ten (10) days from the day on which the petition is filed with the Commission, withdraw his or her signature from the petition. Any signature so withdrawn shall not be counted in determining the legal sufficiency of the petition. The affidavit shall:

1. Be signed and sworn to before a notary public.
2. Be in the given name and surname of the affiant.
3. State the affiant's voter census number, residence address, giving street and number, if any, his or her post office address, the name of the District in which he or she is registered to vote, and the referendum number of the petition which he or she signed.
4. Affirm the affiant's intention to withdraw his or her signature from the petition.

B. The affidavit shall be provided by the Election Commission and in substantially the following form:

Affidavit of Signature Withdrawal

STATE OF ARIZONA)
) ss:
County of _____)

I, (given name and surname), being first duly sworn, say that I am an eligible voter of the White Mountain Apache Tribe.

That my voter census number is _____

That my residence address is _____
(street and number, if any)

That my post office address is _____

That I am registered to vote in District _____

That I signed the referendum petition to which the Election Commission had assigned referendum number _____. That it is my intention by the signing and filing of this affidavit to withdraw my signature from that petition.

Signature of Affiant

Subscribed and sworn to before me this _____ day of _____ 20____

Notary Public or Election Commission Member

My Commission Expires:

SECTION 7.6 FILING OF PETITION AND ELECTION

Signature sheets; petitions; form; procedure for filing:

- A. Every sheet for signatures shall:
 - 1. Be in the form prescribed by this Chapter.
 - 2. Have printed in its lower right hand corner, on each side of such sheet, the number assigned to the petition by the Election Commission.
 - 3. Be attached to a full and correct copy of the title and text of the enacted or proposed ordinance or resolution referred by the petition.

B. Petitions may be filed with the Election Commission in numbered sections for convenience in handling. Not more than fifteen (15) signatures on one sheet shall be counted. When the petition is offered for filing, the Election Commission, in the presence of the person offering them for filing, shall:

1. Detach the petition sheets containing the signatures and affidavits from the text of the referred enacted or proposed ordinance or resolution.

2. Check to determine that each signature sheet bears the number assigned by him or her to the petition, and shall count the signatures on only those sheets bearing such number.

3. Cause all signature sheets to be grouped together and attach them to one or more printed copies of the referred enacted or proposed ordinance or resolution.

4. Number in the lower right hand corner both sides of the signature sheets in consecutive order. The same number shall appear on both sides of the sheet.

C. In no event shall the Election Commission accept a referendum petition filed later than ninety (90) calendar days after the Commission has issued its official number for that referendum petition pursuant to Section 7.2 B.

SECTION 7.7 VERIFICATION OF ELIGIBLE VOTERS

A. The Tribal Election Commission shall verify the signatures and claims of persons signing the Petition who claim to be registered and eligible Tribal voters within one hundred twenty (120) days following the Commission's assignment of its official number for that referendum petition. If investigation finds that persons signing the Petition are not eligible Tribal voters as of the date of signing the Petition, the Board shall certify:

1. The names, as well as the actual number, of persons selected by the Commission for verification found not to be eligible voters as of the date of signing the petition.

2. Whether the person whose signature appears in execution of each affidavit of circulator was an eligible voter at the time of circulating the petition.

B. The Commission's certification shall be in substantially the following form:

We, the Election Commission of the White Mountain Apache Tribe, do hereby certify that we received the attached signature sheets, the affidavit of circulator page or pages and the attached list of page numbers in connection with referendum petition number

_____, that we have caused such signatures to be compared with the records of this office and that those records disclose that the following persons whose signatures:

1. _____ were received, were found not to be eligible voters at the time of signing the petition. A total of _____ persons out of those reviewed were found to be ineligible.

2. _____ appear in the execution of the affidavits of circulator were not eligible voters at the time of circulating the petition:

<u>Name</u>	<u>Address</u>	<u>Page Nos. of Sheets Circulated</u>	<u>Eligible Voters (Yes) or (No)</u>
-------------	----------------	---------------------------------------	--------------------------------------

The records of this office show that each other person whose signature appears in execution of the affidavit of circulator was an eligible voter at the time of circulating the petition.

Dated: _____

Tribal Election Commission Chairperson

(Tribal Seal)

SECTION 7.8 DISPOSITION OF PETITIONS BY BOARD

A. After its verification process is complete, if the number of valid signatures on the Petition sheets, after subtracting ineligible names, equals or exceeds the minimum required by the Constitution, the Election Commission shall issue the following receipt to the person or organization that submitted the petitions:

_____ signature pages bearing _____ signatures for referendum petition number _____ have been refused for filing in this office because the person circulating them was not an eligible voter at the time of circulating the petition or was prohibited by Section _____ at the time of circulating the petition. A total of _____ signatures were found to be ineligible. The actual number of remaining signatures for such referendum petition number _____ are equal to or in excess of the minimum required by the constitution to place a measure on the election ballot. The number of valid signatures filed with this petition, based on our review appears to be at least one hundred

percent of the minimum required or through examination of each signature has been certified to be greater than the minimum required by the constitution.

Date: _____
Tribal Election Commission Chairperson

(Tribal Seal)

The Commission shall within five (5) calendar days of completion of its verification process notify the Tribal Council Chairman that a sufficient number of signatures has been filed and that the referendum shall be placed on the ballot at a special election called by the Tribal Council within ninety (90) days of said notification, provided that the special election may be held on the same date as any other tribal election if the date of the other tribal election is within one hundred fifty (150) days of the Commission's notification to the Tribal Council Chairman pursuant to this section.

B. If the number of valid signatures on the Petition sheets after subtracting ineligible names fails to equal or exceed the minimum required by the Constitution, the Commission shall retain a copy of the signature sheets and immediately return the original signature sheets to the person or organization that submitted them, together with a certified statement that for the following reasons, the petition lacks the minimum number of signatures to place it on the ballot:

1. Signature sheets bearing election commission page numbers _____ and bearing signatures of _____ persons were circulated by a person or persons prohibited from doing so under Section ____.

2. A total of _____ signatures included in the petition(s) have been certified by the Election Commission as ineligible by reason of not being eligible voters at the time of signing such petition.

SECTION 7.9 FORM OF BALLOT

A. The Commission shall transmit to each polling place a certified copy of the official title, the descriptive title and the number of each measure to be voted upon at the ensuing election.

B. The Commission shall print the official title, the descriptive title and the number of each measure upon the official ballot. A measure referred by the Tribal Council shall be designated "referred to the people by the Tribal Council," a measure referred by petition shall be designated "referendum ordered by petition of the people."

C. There shall be printed on the official ballot immediately below the number of the measure and the official title of each measure a descriptive title containing a summary of the principal provisions of the measure, not to exceed fifty (50) words, which shall be prepared by the Commission and approved by the Attorney General.

Immediately following the descriptive title of each measure there shall be printed the phrases:

A "yes" vote shall have the effect of _____

A "no" vote shall have the effect of _____

The blank spaces shall be filled with a brief phrase prepared by the Commission and, approved by the Attorney General stating the essential change in the existing law should the measure receive a majority of votes cast in that particular manner. Opposite the phrases there shall be printed the number of the measure, and below the number of the measure and opposite each phrase there shall be printed the corresponding words "yes" or "no" and a square in which the voter may make a mark indicating his or her preference.

SECTION 7.10 COUNTING AND CANVASSING VOTES; TRIBAL CHAIRMAN'S PROCLAMATION

A. The votes shall be counted, canvassed and returned by the officers of the Election Commission, and the abstracts made by the clerks of the polling places of the White Mountain Apache voting districts shall be returned to the Commission on separate abstract sheets in the manner provided by law. The total vote shall then be canvassed and certified by the Commission in accordance with Section 5.3.

B. If two or more conflicting measures are approved at the same election, the Tribal Election Commission shall declare and certify to the Tribal Council which of the measures received the greatest number of affirmative votes.

SECTION 7.11 DEFEAT OF REFERRED MATTER

If a referendum election of any enacted or proposed ordinance or resolution, or portion thereof, of the Tribal Council is unsuccessful, no referendum petition on the defeated ordinance or resolution or portion thereof referred shall be permitted for a period of two (2) years from the date of the election results wherein the referendum failed.

SECTION 7.12 REFERENDUM PROCEDURES SUPERSEDED

This Chapter replaces and supersedes the Referendum Procedures and Regulations enacted by the Tribal Council on January 10, 1996 pursuant to Resolution No. 01-96-006.

SECTION 7.13 CHAPTER THREE OF GOVERNMENT CODE REPEALED

This Code supersedes and repeals Chapter Three of the Government Code.

CHAPTER EIGHT VIOLATIONS

[NOTE: Chapter Eight, Violations, was added by Ordinance No. 252, enacted on November 16, 2011;
and Section 8.2 was amended by Ordinance No. 278, enacted November 12, 2015.]

SECTION 8.1 VOTING VIOLATIONS

A. A person is guilty of violation of this Code who:

1. Knowingly votes more than once or attempts to vote more than once at any one election; or

2. Not being entitled to vote, knowingly votes or attempts to vote; or

3. Hinders the voting of others; or

4. Threatens unlawful harm to any person with the purpose to influence a person=s vote; or

5. Offers, confers, agrees to confer upon another, or solicits, accepts or agrees to accept from another any benefit including any pecuniary benefit as consideration for the recipient=s vote; or

6. After having received a ballot as a voter, knowingly fails to cast the ballot or return the ballot to the Election Precinct judge before leaving the polling place or going outside the voting area; or

7. Knowingly adds a ballot to those legally cast at any election by fraudulently introducing the ballot into the ballot box or mixing the ballot with other ballots lawfully cast while they are being canvassed or counted; or

8. Knowingly detains, destroys, alters, or mutilates a ballot or election return; or

9. Intentionally disables or removes from the polling place or custody of an election official, a voting machine, ballot box, or voting record; or

10. While at a voting location, refuses to obey a lawful order of a member of the Election Commission or Precinct Committee.

B. Penalties.

1. Any person violating the provisions of this Section is guilty of a criminal offense, and upon conviction, shall be subject to a fine not to exceed One

Thousand Dollars (\$1,000.00), or a term of imprisonment not to exceed one hundred eighty (180) days, or both.

2. Persons not subject to the criminal jurisdiction of the Tribal Court shall be subject to exclusion from the Reservation.

SECTION 8.2 PETITION VIOLATIONS

A. A person is guilty of violation of this Code who:

1. Threatens unlawful harm to any person with the purpose to induce or compel a person to sign or not sign any petition; or

2. Offers, confers, agrees to confer upon another, or solicits, accepts or agrees to accept from another any benefit including any pecuniary benefit as consideration for the recipient to sign or not sign any petition; or

3. Signing a petition using any name other than one=s own name, except in a circumstance where he or she signs for a person, in the presence of and at the specific request of such person, who is incapable of signing his or her own name, because of physical infirmity; or

4. Knowingly signing more than one nomination petition for the same office in one election; or

5. Knowingly signing more than one referendum petition for the same measure in one election; or

6. Knowingly signing a petition at a time at which the signer is not an eligible voter; or

7. Knowingly destroying or suppressing a petition; or

8. Providing false information on any petition; or

9. Willfully violating any provision of this Code or regulation issued by the Commission in connection with the circulation, signing, or submission of any petition.

B. Penalties.

1. Any person violating the provisions of this Section is guilty of a criminal offense, and upon conviction, shall be subject to a fine not to exceed One Thousand Dollars (\$1,000.00), or a term of imprisonment not to exceed one hundred eighty (180) days, or both.

2. Any signature obtained in violation of this Section shall be void and shall not be counted in determining the legal sufficiency of the petition.

3. Persons not subject to the criminal jurisdiction of the Tribal Court shall be subject to exclusion from the Reservation.

SECTION 8.3 GENERAL VIOLATIONS

A. A person is guilty of violation of this Code who:

1. Knowingly violates any provision of this Code or duly issued regulation of the Election Commission; or

2. Knowingly making any false certification or false statement or representation in any document arising under this Code.

B. Penalties.

1. Any person violating the provisions of the Section is guilty of a criminal offense, and upon conviction, shall be subject to a fine not to exceed One Thousand Dollars (\$1,000.00), or a term of imprisonment not to exceed one hundred eighty (180) days, or both.

2. Persons not subject to the criminal jurisdiction of the Tribal Court shall be subject to exclusion from the Reservation.

**AFFIDAVIT OF QUALIFICATIONS FOR TRIBAL
CHAIRMAN OR VICE CHAIRMAN**

STATE OF ARIZONA)
) ss:
County of _____)

I, _____, being first duly sworn upon my oath
hereby depose and state:

- 1. I am an enrolled member of the White Mountain Apache Tribe;
- 2. I am twenty-five (25) years of age or more;
- 3. I can speak Apache;
- 4. I am a resident of the Fort Apache Indian Reservation;
- 5. I have not been convicted of a felony nor have I, within the preceding year, been convicted of a crime involving moral integrity, such as: adultery, bribery, embezzlement, extortion, fraud, forgery, misbranding, perjury, theft or public intoxication.

Dated this _____ day of _____, 20____.

SUBSCRIBED AND SWORN to before me the undersigned Notary Public this _____
day of _____, 20____.

Notary Public

My Commission expires:

AFFIDAVIT OF QUALIFICATIONS FOR TRIBAL COUNCIL

STATE OF ARIZONA)
) ss:
County of _____)

I, _____, being first duly sworn upon my oath hereby depose and state:

- 1. I am an enrolled member of the White Mountain Apache Tribe;
2. I am twenty-five (25) years of age or more;
3. I can speak Apache;
4. I am a resident of the district for which I am seeking the Tribal Council position, or I operate cattle within the district, or I have a land assignment in the district. Proof of residency, cattle operation or land assignment is attached hereto and incorporated by reference herein;
5. I have not been convicted of a felony nor have I, within the preceding year, been convicted of a crime involving moral integrity, such as: adultery, bribery, embezzlement, extortion, fraud, forgery, misbranding, perjury, theft or public intoxication.

Dated this _____ day of _____, 20____.

SUBSCRIBED AND SWORN to before me the undersigned Notary Public this _____ day of _____, 20____.

My commission expires: _____
Notary Public

**WHITE MOUNTAIN APACHE TRIBE
Fort Apache Indian Reservation
Whiteriver, Arizona**

NOMINATION PETITION

Pursuant to Article VI, Section 5 of the Constitution of the White Mountain Apache Tribe and Chapter Four of the Election Code of the White Mountain Apache Tribe, we the undersigned resident voters of the White Mountain Apache Tribe, hereby nominate _____ as candidate for the office of Chairman of the White Mountain Apache Tribe.

	Print Name	Voter Census Number	Signature	Address	District
Date					
1.	_____	_____	_____	_____	_____
2.	_____	_____	_____	_____	_____
3.	_____	_____	_____	_____	_____
4.	_____	_____	_____	_____	_____
5.	_____	_____	_____	_____	_____
6.	_____	_____	_____	_____	_____
7.	_____	_____	_____	_____	_____
8.	_____	_____	_____	_____	_____
9.	_____	_____	_____	_____	_____
10.	_____	_____	_____	_____	_____
11.	_____	_____	_____	_____	_____
12.	_____	_____	_____	_____	_____
13.	_____	_____	_____	_____	_____
14.	_____	_____	_____	_____	_____
15.	_____	_____	_____	_____	_____
16.	_____	_____	_____	_____	_____
17.	_____	_____	_____	_____	_____
18.	_____	_____	_____	_____	_____

WARNING: It is a criminal offense to knowingly sign more than one nomination petition for the same office.

Affidavit of Circulator

State of _____)
) ss.
County of _____)

I, _____ an eligible voter of the White Mountain Apache Tribe, under the penalty
(print name)
of law, depose and say that each person signed this sheet of the nominating petition in my presence on the date indicated, and I
believe that each signer's name, residence address or post office address are correctly stated, and that each signer is an eligible voter of
the White Mountain Apache Tribe.

Signature of Circulator _____

Voter Census Number _____

Address of Circulator _____

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20____.

Notary Public or Election Commission Member

My Commission Expires:

WHITE MOUNTAIN APACHE TRIBE
Fort Apache Indian Reservation
Whiteriver, Arizona

NOMINATION PETITION

Pursuant to Article VI, Section 5 of the Constitution of the White Mountain Apache Tribe and Chapter Four of the Election Code of the White Mountain Apache Tribe, we the undersigned resident voters of the White Mountain Apache Tribe, hereby nominate _____ as candidate for the office of Vice Chairman of the White Mountain Apache Tribe.

	Print Name	Voter Census Number	Signature	Address	District
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					
15.					
16.					
17.					
18.					

WARNING: It is a criminal offense to knowingly sign more than one nomination petition for the same office.

Affidavit of Circulator

State of _____)
) ss.
County of _____)

I, _____ an eligible voter of the White Mountain Apache Tribe, under the penalty
(print name)

of law, depose and say that each person signed this sheet of the nominating petition in my presence on the date indicated, and I believe that each signer's name, residence address or post office address are correctly stated, and that each signer is an eligible voter of the White Mountain Apache Tribe.

Signature of Circulator _____

Voter Census Number _____

Address of Circulator _____

SUBSCRIBED AND SWORN to before me this ____ day of _____, 20____.

Notary Public or Election Commission Member

My Commission Expires:

WHITE MOUNTAIN APACHE TRIBE
Fort Apache Indian Reservation
Whiteriver, Arizona

NOMINATION PETITION

Pursuant to Article VI, Section 5 of the Constitution of the White Mountain Apache Tribe and Chapter Four of the Election Code of the White Mountain Apache Tribe, we the undersigned resident voters of the White Mountain Apache Tribe, hereby nominate _____ as candidate for the office of District _____ (_____) Councilmember of the White Mountain Apache Tribe.

	Print Name	Voter Census Number	Signature	Address	District	Date
1.	_____	_____	_____	_____	_____	_____
2.	_____	_____	_____	_____	_____	_____
3.	_____	_____	_____	_____	_____	_____
4.	_____	_____	_____	_____	_____	_____
5.	_____	_____	_____	_____	_____	_____
6.	_____	_____	_____	_____	_____	_____
7.	_____	_____	_____	_____	_____	_____
8.	_____	_____	_____	_____	_____	_____
9.	_____	_____	_____	_____	_____	_____
10.	_____	_____	_____	_____	_____	_____
11.	_____	_____	_____	_____	_____	_____
12.	_____	_____	_____	_____	_____	_____
13.	_____	_____	_____	_____	_____	_____
14.	_____	_____	_____	_____	_____	_____
15.	_____	_____	_____	_____	_____	_____
16.	_____	_____	_____	_____	_____	_____
17.	_____	_____	_____	_____	_____	_____
18.	_____	_____	_____	_____	_____	_____

WARNING: It is a criminal offense to knowingly sign more than one nomination petition for the same office.

Affidavit of Circulator

State of _____)
) ss.
County of _____)

I, _____ an eligible voter of the White Mountain Apache Tribe, under the penalty
(print name)
of law, depose and say that each person signed this sheet of the nominating petition in my presence on the date indicated, and I
believe that each signer's name, residence address or post office address are correctly stated, and that each signer is an eligible voter of
the White Mountain Apache Tribe.

Signature of Circulator _____

Voter Census Number _____

Address of Circulator _____

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20____.

Notary Public or Election Commission Member

My Commission Expires:

ELECTION COMMISSION COMPLAINT FORM

INSTRUCTIONS:

- 1. Please fill out this complaint form as completely as possible. If you have statements of witnesses, please attach them to this complaint form.
2. After completing this form, please submit the form to the Chairperson of the Election Commission unless the complaint is against the Chairperson of the Election Commission, in which case, submit your complaint to the Vice-Chairperson of the Election Commission.
3. You will be asked to appear at a hearing to give your sworn testimony and the testimony of any witnesses.
4. After the complaint is investigated, you will be provided with a written report of the investigation and the recommended actions.

COMPLAINT

- 1. Please give a detailed description of the actions about which you are complaining. If you need more space, please attach separate sheets of paper to this form.

- 2. Where did these actions occur? _____

- 3. When did these actions occur? (Date and Time) _____

- 4. Who was involved in these actions? _____

- 5. Please give the names of all witnesses. _____

- 6. What are you asking the Commission to do regarding your complaint? _____

- 7. Please provide your name, mailing address and telephone number where you may be contacted.

STATE OF ARIZONA)
) ss:
County of _____)

_____ having been first duly sworn, deposes and says:

1. That he/she is the person who executed the foregoing complaint, including any attached papers used to describe the Complaint.

2. That he/she has read the same and knows the contents thereof.

3. That the matters stated therein are true to the best of his/her knowledge, except such matters as are stated to be upon information and belief, and, as to those matters, he/she believes them to be true.

Signature

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20_____.

My commission expires:

Notary Public

APPLICATION FOR REFERENDUM PETITION NUMBER

Tribal Election Commission
 WHITE MOUNTAIN APACHE TRIBE
 P.O. Box 589
 Whiteriver, Arizona 85941

The undersigned eligible voter intends to circulate and file a REFERENDUM petition and hereby makes application for the issuance of an official referendum number to be printed in the lower right-hand corner of each side of each signature sheet of such petition. Pursuant to Section 7.2 of the White Mountain Apache Election Code, attached hereto is the full text, in no less than eight point type, of the RESOLUTION or ORDINANCE (circle appropriate word) intended to be REFERRED at special election.

SUMMARY: A description of no more than one hundred words of the principal provisions of the Resolution or Ordinance that will appear in no less than eight point type on the face of each petition signature sheet to be circulated.

 Signature of Applicant

 Name of Organization, if any

 Printed Name of Applicant

 Address City

 Address

 State Zip Telephone Number

 City State Zip

 Name of Officer and Title

 Telephone Number

 Address City

FOR TRIBAL ELECTION COMMISSION USE ONLY

Date of Application _____

 Name of Officer and Title

Signature Required _____

 Address City

Deadline for Filing _____

 State Zip Telephone Number

Referendum Number Issued _____

REFERENDUM DESCRIPTION

(Insert a description of no more than one hundred words of the principal provisions of the resolution or ordinance sought to be referred.)

NOTICE: This is only a description of the ordinance or resolution sought to be referred prepared by the sponsor of the referral. It may not include every provision contained in the ordinance or resolution. Before signing, make sure the title and text of the ordinance or resolution are attached. You have the right to read or examine the title and text before signing.

PETITION FOR REFERENDUM

To the White Mountain Apache Tribal Election Commission:

We, the undersigned enrolled members and eligible voters of the White Mountain Apache Tribe of the Fort Apache Indian Reservation, respectfully order that Tribal Ordinance No. _____ or Tribal Resolution No. _____, entitled _____ (title of ordinance or resolution number, and if the petition is against less than the whole ordinance or resolution, then set forth here the item, section, or part on which the referendum is used), proposed or adopted by the Tribal Council on _____ shall be referred to a vote of the eligible voters of the White Mountain Apache Tribe at a special election for their approval or rejection at a special election and each for himself says: I have personally signed this petition with my first and last names. I have not signed any other petition for the same measure. I am an eligible voter of the White Mountain Apache Tribe of the Fort Apache Indian Reservation.

“WARNING”

It is a criminal offense for any person to knowingly sign a referendum petition with a name other than his or her own, except in a circumstance where he or she signs for a person, in the presence of and at the specific request of such person, who is incapable of signing his or her own name because of physical infirmity, or to knowingly sign such petition when he or she is not an eligible voter. **IT IS ALSO A CRIMINAL OFFENSE TO KNOWINGLY SIGN MORE THAN ONE PETITION FOR THE SAME MEASURE.**

SIGNATURE	NAME (first and last name printed)	VOTER CENSUS NUMBER	ADDRESS	DATE SIGNED
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				
14.				
15.				

The validity of signatures on this sheet must be sworn to by the circulator before a notary public on the form appearing on the reverse side.

_____ PAID CIRCULATOR _____ VOLUNTEER ELECTION COMMISSION REFERENDUM NUMBER _____

Affidavit of Circulator

State of _____)
) ss.
County of _____)

I, _____ an eligible voter of the White Mountain Apache Tribe, under the penalty
(print name)
of law, depose and say that each person signed this sheet of the foregoing petition in my presence on the date indicated, and I believe that each signer's
name and residence address or post office address are correctly stated, and that each signer is an eligible voter of the White Mountain Apache Tribe and
that at all times during circulation of this signature sheet a copy of the title and text of the referred ordinance or resolution was attached to this signature
sheet.

Signature of Circulator _____

Printed Name of Circulator _____

Voter Census Number _____

Address of Circulator _____

District where registered _____

If registered at a different address at any time during
Circulation of this sheet, former address of Circulator _____

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20_____.

Notary Public or Election Commission Member

My Commission Expires:

ELECTION COMMISSION REFERENDUM NUMBER _____