

**RESOLUTION OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE
FORT APACHE INDIAN RESERVATION**

WHEREAS, the Tribal Council has reviewed recommended revisions to the Judicial Code providing for the appointment of judges pro tempore and deletion of the retention elections for judges; and


WHEREAS, the Tribal Council recommends that said proposed amendments attached hereto be posted for public comments as required by the Constitution.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs the Tribal Council Secretary to post the proposed amendments to the Judicial Code in each District for ten days as required by the Constitution.

The foregoing resolution was on September 08, 1994, duly adopted by a vote of nine for and zero against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article IV, Section 1 (a), (i), (t) and (u) of the Constitution of the Tribe, ratified by the Tribe September 30, 1993, and approved by the Secretary of the Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).



Chairman of the Tribal Council



Secretary of the Tribal Council

**ORDINANCE OF THE
WHITE MOUNTAIN APACHE TRIBE
OF THE FORT APACHE INDIAN RESERVATION**

BE IT ENACTED by the Tribal Council of the White Mountain Apache Tribe that it hereby amends Sections 2.9 and 2.16 of the Judicial Code as follows:

SECTION 2.9 JUDGES

A. **Selection:** The Chief Judge and the Associate Judges of the trial court, and the Chief Justice and the Associate Justices of the Court of Appeals, and the Juvenile Court Judge shall each be selected by a majority vote of the Tribal Council to serve a term of four (4) years, subject to the Forfeiture and Removal provisions of this Chapter; ~~and the retention election provided for by subsection C of this section.~~

B. **Selection Procedures:** The Tribal Council shall select judges at regular meetings or at other public meetings specially called for that purpose.

(1) Any person who meets the requirements of the section of this Code entitled Qualifications for Judges shall be eligible to be nominated for and to fill a vacancy on the Court.

(2) The selection of judges shall begin with the opening of the floor to nominations by the Council; any adult tribal member may then nominate any eligible person as a candidate for Tribal Judge.

~~C. **Retention Elections:** Each tribal judge shall, after he or she has served at least half of a four-year term, be subject to a vote of the qualified voters of the White Mountain Apache Tribe to determine whether or not he or she shall be retained as a Judge. Each judge shall be subject to only one such retention election during his or her four-year term. Each voter shall be entitled to cast a vote of "Retain" or "Do Not Retain" for each Judge who is "up for retention". In the event that the majority of voters in any election vote "Do Not Retain" for a Judge, that Judge shall, ninety days following such election, forfeit his or her position as Tribal Judge. The Tribal Council shall, within that time, select a new Judge to fill the vacated position. The Tribal Council may, by a two-thirds majority vote, restore a non-retained Judge to his or her position as a Tribal Judge for the balance of the four-year term.~~

SECTION 2.16

APPOINTMENT OF VISITING JUDGES AND JUDGES PRO
TEMPORE

~~A. The Chief Judge, in consultation with the associate judges, shall promulgate Rules of Court governing the qualifications, appointment, compensation, and reimbursement for expenses, of visiting judges.~~

~~B. In any case in which, due to refusal, disqualification, or any other cause, including stipulation of the parties, the Chief Judge determines that there is no tribal judge available to hear the matter, the Chief Judge may, in accordance with the Rules of Court governing such matters, appoint a visiting judge to hear the case.~~

~~C. Visiting judges shall be compensated for their services, and reimbursed for the expenses necessarily arising from such services, according to the Rules of Court.~~

A. Visiting Judges: In any case in which, due to recusal, disqualification, or any other cause, including stipulation of the parties, the Chief Judge determines that there is no tribal judge available to hear the matter, the Chief Judge, in consultation with the associate judges and in accordance with the Rules of Court governing such matters, may appoint a visiting judge to hear the case.

B. Judges Pro Tempore. The Tribal Council may provide for the appointment of members of the Arizona Bar to serve as judges pro tempore of the White Mountain Apache trial, juvenile and appellate courts. When serving, any such person shall have all the judicial powers of a regular appointed judge of the court to which said person is appointed. A person who has been a judge pro tempore should not act as a lawyer in a proceeding in which he has served as a judge or in any other proceeding related thereto.

C. Compensation. Visiting judges and judges pro tempore shall be compensated for their services, and reimbursed for the expenses necessarily arising from such services, according to Section 2.14 of this Code.

The foregoing ordinance was on _____, 1994 duly adopted by a vote of _____ for and _____ against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article IV, Section 1 () of the Constitution of the Tribe, ratified by the Tribe September 30, 1993, and approved by the Secretary of the Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

Chairman of the Tribal Council

Secretary of the Tribal Council