



WHITE MOUNTAIN APACHE TRIBE

*A Sovereign Nation Exercising Self-Governance
Over the Fort Apache Indian Reservation*

Resolution No. 05-2013-106

(Approving Enactment of Ordinance No. 259, Amending Sections 4.5, 4.6, 4.8, 4.9, 4.10 and 4.11 of the Election Code of the White Mountain Apache Tribe)

WHEREAS, pursuant to Article IV, Section 1(q) of the Tribal Constitution and Section 1.6 of the Government Code, codes may be “amended by the adoption of ordinances by the Tribal Council; and

WHEREAS, on April 24, 2013 the Tribal Council authorized the posting of Ordinance No. 259, which contained proposed amendments to Sections 4.5, 4.6, 4.8, 4.9, 4.10 and 4.11 of the Tribal Election Code, as attached hereto and incorporated by reference; and

WHEREAS, Ordinance No. 259 was posted pursuant to Article XV of the Constitution of the White Mountain Apache Tribe, and since that time the Office of the Tribal Council Secretary has received no comments regarding the proposed changes; and

WHEREAS, the Council has reviewed Ordinance No. 259 carefully, and considered the recommendations and the implications thereof in great detail and finds that adoption of Ordinance No. 259 would greatly improve procedures for conducting Tribal elections on the Fort Apache Indian Reservation and is in the best interest of the Tribe.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that proposed Ordinance 259, attached hereto and incorporated by reference, which amends Sections 4.5, 4.6, 4.8, 4.9, 4.10 and 4.11 of the Election Code of the White Mountain Apache Tribe, is hereby adopted.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event that this Resolution conflicts with a prior Resolution or Policy, this Resolution shall supersede and govern over the conflicting subject matter.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event this Resolution directly conflicts with the Tribal Constitution, Tribal Ordinances or Federal Laws, this Resolution shall be declared null and void and have no legal effect.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Chairman, or in his absence, the Acting Chairman, is hereby authorized to execute any and all

documents necessary to effectuate the intent of this Resolution. In the event that the Chairman fails to delegate signatory authority to an Acting Chairman, the Vice-Chairman may sign.

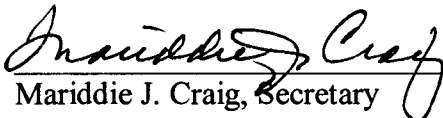
The foregoing resolution was on MAY 16, 2013 duly adopted by a vote of SEVEN for and ZERO against by the Tribal Council of the White Mountain Apache Tribe, pursuant to the authority vested in it by Article IV, Section 1 (a), (q), (s), (t) and (u) of the Tribal Constitution, ratified by the Tribe September 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).



Ronnie Lupe, Chairman

5/28/13

Date



Mariddie J. Craig, Secretary

05/24/2013

Date

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

BE IT ENACTED BY THE COUNCIL OF THE WHITE MOUNTAIN APACHE TRIBE Ordinance No. 259, amending White Mountain Apache Election Code Sections 4.5, 4.6, 4.8, 4.9, 4.10 and 4.11, as follows:

**CHAPTER FOUR
QUALIFICATION AND NOMINATION OF CANDIDATES**

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 ~~verifying~~ 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) ~~forty five (45)~~ 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 ~~verifying~~ 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) ~~forty-five (45)~~ 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 4.8 COMMISSION FINDINGS CERTIFICATION OF CANDIDATES

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. 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
PREPARATION OF BALLOTS**

A. A challenge may be brought against a final Commission finding on eligibility only 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 forty-eight (48) hours following 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.

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.

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 ~~such petition~~. 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) ~~thirty~~ 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.