



WHITE MOUNTAIN APACHE TRIBE

A Sovereign Tribal Nation

(Approving Posting of Ordinance No. 278, Amending the Election Code of the White Mountain Apache Tribe)

- WHEREAS,** pursuant to Article IV, Section 1(q) of the Tribal Constitution, the Tribal Council may enact ordinances that concern the welfare of the Tribe, to manage all economic affairs and enterprises of the Tribe, and to regulate subordinate organizations for economic and other purposes; and
- WHEREAS,** the Office of the Attorney General has this day proposed revisions to the Election Code, Sections 4.8, 4.9 and 8.2, as set forth in Ordinance No. 278 attached hereto; and
- WHEREAS,** pursuant to Article XV of the Constitution of the White Mountain Apache Tribe, the proposed amendments shall be posted in each district for at least ten (10) days before final action by the Council; and
- WHEREAS,** the Council has reviewed Ordinance No. 278 carefully, and considered the recommendations and the implications thereof in great detail and finds the posting of Ordinance No. 278 to be in the best interest of the Tribe.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that proposed Ordinance 278, which amends the Election Code, Sections 4.8, 4.9 and 8.2 attached hereto, is hereby recommended for posting by the Tribal Council.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe, as follows:

1. The Tribal Council Secretary is hereby authorized and directed to post this resolution and Ordinance No. 278, in each district for at least ten (10) days before final action by the Council. In addition, notices of the proposed ordinance shall be sent in the form of a press release to KNNB-FM and the Apache Scout.
2. Any and all comments concerning Ordinance No. 278 proposed herein may be sent to the attention of the Tribal Council Secretary, White Mountain Apache Tribe, P. O. Box 700, Whiteriver, AZ 85941.
3. Upon completion of the posting period, the Tribal Council Secretary is further directed to submit proof of posting to the Tribal Council as well as the Attorney General's Office and to report any public comments to the Tribal Council, and schedule a meeting thereof for final action.

Resolution No. 10-2015-212

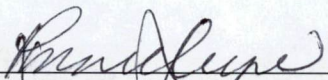
Ordinance No. 278

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.

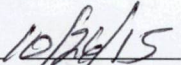
BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event this Resolution directly conflicts with the Tribal Constitution, Tribal Ordinances, or any material facts concerning the issues presented are later found to be false, this Resolution shall be deemed 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 Vice-Chairman, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution.

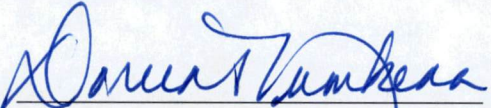
The foregoing resolution was on **OCTOBER 21, 2015** duly adopted by a vote of **TEN** for, **ZERO** against, and **ONE** abstention by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it under the enumerated powers listed in Article IV, Section 1 of the WMAT Constitution, so ratified on September 30, 1993, and federally recognized pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984).



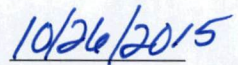
Ronnie Lupe, Tribal Chairman



Date



Doreen T. Numkena, Tribal Secretary



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. 278, amending White Mountain Apache Election Code Sections 4.8, 4.9 and 8.2, as follows:

**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; ~~and~~ 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 Sections 4.8 and 4.9 were amended by Ordinance No. 278, enacted , 2015.]

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.

~~B.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 ~~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~~ 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.

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 _____, 2015.]

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 ~~a person seeking to be a candidate for one elected office or for the same measure at~~ in one election; or

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

~~(5)(6)~~ Knowingly signing a petition at a time at which the signer is not an eligible voter; or

~~(6)(7)~~ Knowingly destroying or suppressing a petition; or

~~(7)(8)~~ Providing false information on any petition; or

~~(8)(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.

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

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

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

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

My Commission Expires: _____

Notary Public or Election Commission Member _____

ELECTION COMMISSION REFERENDUM NUMBER _____