

Chapter 3 - ELECTIONS

ARTICLE I. – GENERAL PROVISIONS

Sec. 3 – General provisions. The general provisions below shall apply throughout the Election Ordinance, unless otherwise stated.

A. Definitions. The following terms are used throughout this Ordinance:

1. “Board” means the Election Board.
2. “Contractual Obligation” or “Obligation” means (a) an agreement that evidences direct or contingent indebtedness of the Nation or its wholly owned enterprises in an amount in excess of \$2,500,000, including but not limited to, bonds, conditional sales contracts, loan agreements, lease obligations, promissory notes, and guarantees of the same; (b) an agreement that disposes real property of the Nation or its wholly owned enterprises if the real property is valued at \$2,500,000 or more; (c) an agreement that encumbers real property of the Nation or its wholly owned enterprises for a period of seven (7) or more years; or (d) a contract or agreement for goods or services whereby the Nation or its wholly owned enterprises is obligated to pay in excess of \$2,500,000 per year. “Contractual Obligation” or “Obligation” shall not include any confidential legal settlement or other agreement required to be confidential as a matter of law or pursuant to its stated terms.
3. “Fort McDowell” or the “Nation” means the Fort McDowell Yavapai Nation.
4. “Good cause” means legally adequate or substantial grounds to take or support an action.
5. “Lawful order” means enforcing the terms of this Ordinance.
6. “Member(s)” means Election Board Member(s).
7. “Ordinance” means the Election Ordinance.
8. “Personal service” means notice through hand-delivery from Chair or Secretary of the Board.
9. “Polling place” means the area reserved for voters and any space within fifty (50) feet of it.
10. “Tribal member(s)” means Fort McDowell Yavapai Nation enrolled tribal member(s) used in a manner consistent with the meaning in the Constitution of the Fort McDowell Yavapai Nation.
11. “Tribal Council” means the Fort McDowell Yavapai Nation Tribal Council used in a manner consistent with the meaning in the Constitution of the Fort McDowell Yavapai Nation.
12. “Tribal Court” means the Tribal Court of the Fort McDowell Yavapai Nation.

B. Time. In computing any period of time prescribed or allowed by this Ordinance the day of the act, event or default from which the designated period of time begins to run shall not be included. When the period of time prescribed or allowed under this Ordinance is less than eleven (11) days, then Saturdays, Sundays, legal holidays, Tribal holidays and official days off shall be excluded in the computation.

1. Day Defined. Unless otherwise stated, the reference to “day” as used throughout this Ordinance shall mean a calendar day. Any reference to “business day” as used throughout this Ordinance shall mean a tribal government working day.
2. Submission Deadline Defined. Unless otherwise stated, the reference to any submittal date shall be by close of business per tribal government working hours.

C. Notice. Unless otherwise stated in this Ordinance, the Board may provide notification to individuals by certified mail or personal service or both. In lieu of certified mail as a method of notification, a candidate may provide the Board with written authorization that all certified mail notifications be sent via a personal electronic mailing (e-mail) account instead. Personal service as a method of notification may not be waived.

D. Service. All persons who file any challenges under this Ordinance shall provide an address where that person can be served personally. If that person is not at the designated address when personal service is attempted, the process server is authorized to either leave the notice with a person of suitable age

or to post the notice at the address. The act of leaving the notice with a person of suitable age or posting the notice shall constitute receipt of the notice for purposes of this Ordinance. "Suitable age" shall be defined as an individual eighteen (18) years of age or older.

- E. Inspection. Any qualified voter may inspect all applications and petitions filed with the Board. If a qualified voter has reason to believe that an application, petition or signature is invalid, the qualified voter shall immediately inform the Board Secretary for consideration. The Board Secretary shall then immediately inform the Board. Any such notification must be received by the Board Secretary within eleven (11) days after the deadline to submit the relevant application or petition. Complaints received after this period will not be considered by the Board.
- F. Repeal of previous Election Ordinances. Any and all past Ordinances, including the Ordinance passed on January 11, 1999 pursuant to Res. No. 99-07, shall be considered superseded upon the ratification and approval of the Constitution adopted by the voters of the Nation on October 19, 1999.

ARTICLE II. - ELECTION BOARD

Sec. 3-1. - Election Board.

- A. Composition. The Board shall be appointed by a majority of a quorum of the Tribal Council. The Board shall consist of at least five (5) but no more than seven (7) Members, all of whom are enrolled tribal members of the Fort McDowell Yavapai Nation. The Members shall be appointed for a period of four (4) years effective on the date of his or her appointment; provided that two (2) of the initial Members shall be designated to serve initial terms of two (2) years. Each Member shall serve until his or her replacement has been appointed by the Tribal Council. Upon expiration of the term of a Member, the Tribal Council shall appoint a Member to serve for a period of four (4) years. The Chairperson of the Board and the Secretary of the Board shall both be chosen by the Board Members at the onset of each new election. At least three (3) Members shall be designated as Tellers on Election Day.
- B. Removal. The Board may recommend in writing to the Tribal Council that any Member should be removed for failing to uphold the duties of his or her position or for other good cause. Alternatively, the Tribal Council may decide that any Member should be removed for failing to uphold the duties of his or her position or for other good cause.
 - 1. The Member shall be afforded reasonable notice and an opportunity to be heard before Tribal Council. The hearing shall be restricted to the alleged grounds for removal and conducted in closed session.
 - 2. In order to be removed, the Tribal Council must approve the removal by a majority of a quorum vote cast after the above opportunity to be heard. The decision shall be final and non-appealable and will result in the removed Member not being allowed to re-apply or be reappointed within a five (5) year period from the date of removal.
 - 3. The Member will be provided written notice of the final decision; however, the individual votes cast shall not be disclosed.

"Good cause" as used in this Section shall be defined as, but not limited to, inconsistent attendance, misconduct affecting the integrity of the Board, malfeasance in office, violation of confidentiality, misrepresentation of the Board, conviction of a felony offense, conviction of a misdemeanor offense involving moral turpitude as defined in this Ordinance, or currently being on forfeiture.

- C. Qualifications. All Board Members must be:
 - 1. Enrolled members of the Fort McDowell Yavapai Nation.
 - 2. No candidate for office is qualified for appointment to the Board.
 - 3. No existing Member of the Board may run for office without prior resignation from the Board. The resignation must be received no later than the first of August prior to the next regularly scheduled election.

4. No person shall be qualified for appointment to the Board who is currently on forfeiture or who has been convicted of any felony within any jurisdiction or who has, within five (5) years prior to appointment, been convicted of any misdemeanor involving moral turpitude as defined in this Election Ordinance.
 5. Able to dedicate the time and effort necessary to fulfill this substantial commitment.
 6. At least twenty-one (21) years of age.
- D. Compensation. The Board shall be compensated at a rate as set by the Tribal Council.
- E. Vacancies. Vacancies for any reason shall be filled by a majority vote of a quorum of the Tribal Council for the remainder of the existing term.
- F. Conflict of Interest. Unless a majority of the remaining Members agree that the Member can sit as a fair and impartial judge, no Member shall participate in any election challenge or appeal involving a candidate or voter who is an immediate family member. For purposes of this Section, immediate family shall mean father, mother, husband, wife, son, daughter, sister or brother.

Sec. 3-2. - Duties.

- A. In General. The Election Board shall have the duty of assuring that all of the relevant election dates and deadlines are met and shall possess the powers necessary to conduct an orderly and fair election. The Board shall ensure that all elections are conducted according to the Constitution and this Ordinance. The Board shall hear and decide election challenges and disputes as set forth in this Ordinance.
1. Release of Information. The Board, pursuant to a request from a candidate who has filed a petition to run for Tribal office, is authorized to release to that candidate a copy of the mailing addresses of all qualified voters for that particular election. However, as set forth in Section 3-3, the Board may not disseminate the mailing address of a qualified voter for a particular election where that voter has informed the Board in writing that his or her mailing address may not be disseminated to the candidates. The Board is authorized to release candidate information to an enrolled member of the Nation or a Department of the Nation only when there is a written record of authorization from the candidate on file.
- B. Oath. Immediately after each appointment, or as soon as practical thereafter, each Member shall take an oath to faithfully perform the duties imposed upon him or her by the Constitution of the Fort McDowell Yavapai Nation and Tribal Law. A Tribal Judge shall administer and certify the oath.
- C. Confidentiality. Prior to the first Board meeting for each election, each Member shall agree to and sign a confidentiality agreement.
- D. Chairperson. The Chairperson of the Board shall be selected by Members. The Chairperson is a non-voting Member of the Board, except when presented with a tie vote. The Chairperson shall be responsible for:
1. Speaking on behalf of the Board, unless the Chairperson is unable to perform in which case the Chairperson may delegate his or her responsibility to another Member.
 2. Presiding over all Board meetings to ensure the meetings are conducted in an orderly and professional manner. If the Chairperson is absent, any other Member may run the meeting in their absence, provided that there is quorum.
 3. Safe keeping of the ballots and ballot boxes.
 4. Periodically check and monitor the work of the Members to ensure accuracy.
 5. Supervise the counting of the election results.
- E. Secretary. The Secretary of the Board shall be the initial point of contact for information pertaining to the election process or Board. The Secretary is a voting Member of the Board. The Secretary shall be responsible for:

1. The timely performance of all administrative duties, including but not limited to, posting notices or submitting publications, drafting meeting minutes and letters using computer programs, record keeping, contacting departments, providing mailing addresses of voters, and ordering supplies.
 2. The delivery of notices to candidates, unless the Chairperson delegates another Member.
- F. Board Members. The Members shall regularly attend and provide input at meetings. The Members may complete other tasks as needed or assigned by the Chairperson. Each Member is a voting Member, except for the Chairperson.
- G. Tellers. At least three (3) Members shall be designated, by the Board, as Tellers for Election Day. The Tellers check off the voter's names on the final list of qualified voters as they arrive to vote on Election Day, answer voter questions, and assist with other duties when needed.

ARTICLE III. - QUALIFIED VOTERS AND CANDIDATES

Sec. 3-3. - Voters.

- A. Qualified. All enrolled members of the Nation who are twenty-one (21) years of age or over on the date of the election shall be qualified to vote, except enrolled members who are incarcerated on the date of the election or have been declared by a court to be mentally incompetent.
- B. List of Qualified Voters. A list of qualified voters shall be prepared by the Enrollment Office and given to the Board by the first (1st) Thursday in November. The list of qualified voters shall be posted at designated places within the Community by the first Thursday in December before the election. This list shall also include the last known address of all qualified voters. A qualified voter shall update their address with the Enrollment Office.
- C. Voter Mailing Information. A qualified voter must inform the Board in writing no later than the second (2nd) Thursday in November that his or her mailing address may not be disseminated to the candidates. A qualified voter may not allow his or her mailing address to be given to select candidates only.
- D. Appeals. Any enrolled member of the Nation whose name has been removed or omitted from the list of qualified voters may appeal in writing to the Board. The final date for an appeal will be the second (2nd) Thursday in December. The Board shall hold a hearing within five (5) business days after the second (2nd) Thursday in December for any filed voter eligibility appeals. If there is more than one (1) appeal, the Board may consolidate the hearings of the appeals. The decision of the Board shall be made no later than five (5) business days after the hearing and shall be final.
- E. Penalty. A person is guilty of violation of this Ordinance who:
1. Knowingly votes more than once at any election; or
 2. Not being qualified to vote, knowingly votes; or
 3. Knowingly or intentionally preventing or attempting to prevent the voting of others through intimidation, obstruction, or any other method within the area of the polling place; or
 4. After having received a ballot at a polling place, a voter knowingly fails to cast the ballot or return the ballot to the Election Board before leaving the polling place; or
 5. 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
 6. Knowingly detains, destroys, alters, or mutilates a ballot; or
 7. Intentionally disables or removes from the polling place or custody of a Member, a voting machine, ballot box, or voting record; or
 8. While at a voting location, knowingly or intentionally refuses to obey a lawful order of a Member.

Violation of this Ordinance will constitute "voter fraud," a Class III offense as defined in Chapter 6 of the Nation's Law and Order Code. Non-tribal members shall be subject to exclusion from the Nation.

Sec. 3-4. - Absentee voter.

- A. Request for Absentee Ballot. The Board will mail the designated form to request an absentee ballot to the then known addresses of qualified voters who are residing beyond the exterior boundaries of the Nation. Qualified voters who are temporarily absent or otherwise unable to cast their ballots at the polling place may also request absentee ballots. The request for an absentee ballot must be made by a qualified voter and completed on the designated form supplied by the Election Board. The designated form must be notarized before being delivered and received by the Election Board at least forty-five (45) days prior to the date of the election.
- B. Schedule. Absentee ballots shall be mailed to qualified voters who properly requested an absentee ballot at least twenty-one (21) days prior to the date of the election and shall include proper instructions to the qualified voter regarding the marking and sealing of the ballot. The absentee voter must seal his or her ballot in an unmarked envelope. The unmarked envelope must then be placed in an outer envelope which bears the absentee voter's signature and address on the outside. The absentee voter must sign the outer envelope to have his or her votes counted.
- C. Return of Absentee Ballot. Ballots returned to the Board through the mail shall be mailed to the Board at the address indicated on the instructions. Absentee ballots must be received by the Board by 5:00 p.m. the day before the election. If any such absentee ballot is not received by the date and time described herein, then such absentee ballot shall be rejected and not be counted.
- D. Lost Absentee Ballot. If an absentee voter loses his or her absentee ballot, or fails to properly return his or her absentee ballot, he or she may still vote on election day. The Board shall check the list of persons who have voted by absentee ballot to ensure that person has not already voted by absentee ballot.
- E. Received Absentee Ballots. As the Board receives completed absentee ballots, the Board shall meet to properly record the name of the absentee voter and shall remove the unmarked envelope from its signed outer envelope and place the unmarked envelope containing the absentee ballot in a locked ballot box. The signed envelopes shall be attached to the absentee voter's request and retained with the records of the election.

Sec. 3-5. - Candidates.

- A. Qualifications. A person may pick up more than one (1) petition for office but may only run for one (1) elective office. Candidates for the office of President, Vice-President, Treasurer, Secretary and Council Member shall meet the minimum qualifications as listed in Article V, Section 6 of the Fort McDowell Yavapai Nation Constitution which requires that all candidates:
 - 1. Must be an enrolled member of the Fort McDowell Yavapai Nation; and
 - 2. Must have continuously physically resided within the Fort McDowell Yavapai Nation for at least one (1) year immediately preceding the election date; and
 - 3. Must be at least twenty-five (25) years of age on the date of inauguration; and
 - 4. Must possess a high school diploma or its equivalent. Proof of educational requirements must be submitted to the Board at the same time that candidates submit their completed petitions to the Board; and
 - 5. Must not have been convicted of a felony or been convicted of a misdemeanor involving moral turpitude. Candidates must be fingerprinted to verify the requirements of this subsection. Candidates are required to have their fingerprints inked by an authorized Tribal department no later than the first (1st) Monday of the October prior to the next regularly scheduled election. Results of the fingerprint record checks shall be sent by the authorized department to the Nation's Prosecutor to conduct a fair and impartial review of each candidate's criminal background for any felony or any

misdemeanor convictions involving moral turpitude. The Nation's Prosecutor must promptly share the results of the review with the Board.

- B. Moral Turpitude. A person who has been convicted of a felony, or who has been convicted of a misdemeanor involving moral turpitude in federal, state, or tribal jurisdiction shall not be eligible to hold any elected office under the Constitution. The following misdemeanors and no others shall be considered misdemeanors involving moral turpitude: bribery, embezzlement, extortion, deceit, fraud, misappropriation of funds, forgery, misbranding, perjury, rape, sexual offenses with a minor and theft. A crime involving conspiracy, attempt, or being an accessory will classify as a crime involving moral turpitude if the underlying offense involves moral turpitude.
- C. Residence. The candidate must continuously physically reside within the boundaries of the Fort McDowell Yavapai Nation for one (1) year prior to the date of the election. "Continuously physically reside" for the purpose of candidacy shall mean to continuously physically reside within the boundaries of the Nation for at least the last year. Temporary absence from the Nation for purposes of employment, education, military service, illness or physical disability shall not otherwise affect the residence of the candidate, where such candidate has otherwise qualified under this Section. The candidate must provide documentation supporting his or her temporary absence.

ARTICLE IV. - PETITIONS

Sec. 3-6. - Election petitions.

- A. Candidates for office shall be required to obtain the following number of signatures or more from qualified voters of the Nation:
 - 1. For President, fifty (50) signatures
 - 2. For Vice-President, forty (40) signatures
 - 3. For Treasurer, thirty (30) signatures
 - 4. For Secretary, twenty (20) signatures
 - 5. For At Large Council Members, thirty (30) signatures.
- B. Enrolled tribal members of the Nation who are qualified to vote may sign more than one (1) petition form.

Sec. 3-7. - Certification, authorization and waiver.

Any person who takes a petition for the purpose of collecting signatures for any office shall sign a document certifying that he or she meets the qualifications for office. The document shall be made available for public viewing. The person shall also sign an authorization and waiver document allowing the Police Department, other tribally designated agencies, third party companies, or person(s) to conduct a background check, including a criminal records search with tribal, local, county, state, and/or federal law enforcement agencies for a conviction of any felony or a conviction of a misdemeanor as defined in this Ordinance. The Police Department, tribally designated agencies, third party companies, or person(s) shall only release information concerning the criminal records check to the Election Board that relates to any felonies or misdemeanors involving moral turpitude.

Sec. 3-8. - Procedure for review and determination of candidacy qualification.

- A. Candidacy Review Procedures. The Board shall review the candidates' qualifications and the validity of the candidates' submitted Petitions. After the deadline to submit Petitions, the Board shall meet to review the qualifications and the Petitions. If the Board determines that a person is not qualified to be a candidate or a Petition is invalid, the individual affected shall immediately be notified by certified mail, or personal service or both. The notice shall be delivered no later than the second (2nd) Wednesday in November. The notification shall include the reason for the adverse decision.

- B. Appeal of Candidacy Decision. An appeal of the Board's decision that a person is not qualified or a Petition is not valid may be made in writing to the Board within two (2) business days after receipt of the decision. Along with the notice of appeal, the potential candidate shall submit his or her justifications and/or evidence indicating why the Board's initial determination is in error. The Board shall hold a hearing within two (2) business days after receipt of the notice of appeal. The hearing shall be informal and the formal rules of evidence shall not apply.
- C. The Board shall issue a written opinion within three (3) business days after the hearing. The Board's decision shall include detailed findings of fact, the basis of its decision, and its decision. The individual affected shall immediately be notified by certified mail, personal service or both.
- D. An appeal of the decision of the Board may be made in writing to the Tribal Court within two (2) business days after receipt of the Board decision. The decision of the Board shall be given deference by the Tribal Court and the review shall be limited to whether the decision of the Board is sustained by sufficient evidence on the record. The Tribal Court shall decide the matter within three (3) business days of receipt of the appeal. Except in rare cases with good cause shown as to why the additional evidence should be considered, the Tribal Court's review will be limited to a review of the record of the Board proceedings and the evidence before the Board at the time of its decision. Unless good cause is shown for a hearing before the Tribal Court, the Tribal Court shall not hold a hearing. The decision of the Tribal Court shall be final and non-appealable.

Sec. 3-9. - Availability of petitions, deadline for the submission of petitions.

The Board shall make petitions available to the candidates no later than the third (3rd) Monday in September. All petitions shall be submitted to the Board on or before the first (1st) Monday in October. Candidates must submit a non-refundable three hundred dollars (\$300.00) petition-filing fee at the same time petitions are submitted to the Board. The petition filing fee shall be deposited in the Nation's general fund to assist the Tribal government's cost of administering elections.

Sec. 3-10. - Public inspection of filed petitions.

- A. Any qualified voter may inspect all Petitions filed with the Board. If a qualified voter has reason to believe a Petition is invalid, the qualified voter shall immediately notify in writing the Secretary of the Board. Any such written notification must be signed by the qualified voter who has reason to believe the Petition is invalid. The written notification must be hand delivered or emailed to the Board within three (3) business days after the deadline to submit Petitions has passed or such notification will not be considered by the Board. It is the responsibility of the qualified voter to ensure receipt of the written notification by the Board.
- B. The written notice shall be presented to the entire Board for review and consideration. The Board may seek clarification from the qualified voter, if necessary. Any written notification submitted by a qualified voter for purposes under this Section shall not be made available to the public.

ARTICLE V. - ELECTION

Sec. 3-11. - Preparation, form and content of ballots.

- A. Ballots shall be prepared by the Board. Each ballot shall be titled "Official Ballot."
- B. The ballots shall list the names of the candidates whose names appear on the official list of certified candidates as established by the Board. The names of the candidates on the ballots shall be listed alphabetically by last name.
- C. Voters shall not be permitted to write-in candidates on the official ballot.
- D. Voters may cast a vote for each open seat that is open for election. In other words, if the offices of the President, the Treasurer and one (1) Council Member are open for election, then each voter may cast one (1) vote for each office. The voter may also choose to vote for only one (1) candidate for only one (1) office on his or her ballot. For instance, if a voter only wanted to vote for one (1) person for the office of Treasurer, without voting for other open offices, the voter's ballot would remain valid. However, if a

person votes for more than one (1) candidate for an office, then the entire ballot shall be spoiled (rejected) and no votes on the ballot shall be counted. A rejected ballot shall be folded and marked "REJECTED" in red ink by a designated teller. Each Member shall sign his or her name below the marking and the rejected ballot shall be placed in the ballot box at the end of counting.

Sec. 3-12. - Election procedures.

- A. Election. Regular elections shall be held on the second (2nd) Tuesday in January in even numbered years. The Board shall:
 1. Make Petitions for Candidates available no later than the third (3rd) Monday in September before the election and inform the prospective candidates the deadline for the submission of the completed Petitions is on or before the first (1st) Monday in October.
 2. Post qualified voters list by the first (1st) Thursday of November before the election.
 3. Post sufficient notices of the election to be held on the second (2nd) Tuesday in January before the election.
 4. Post the names of certified candidates, as verified by the Board, for a period of at least fifteen (15) days prior to the election, duly noting any pending appeals.
 5. Post the location of the polling place in various tribal locations sufficient to provide adequate notice to qualified voters.
- B. Hours of Voting. The polls shall be open from 7:00 a.m. to 6:00 p.m. Any qualified voter who, at the moment of closing, is in the line of waiting voters shall be allowed to prepare and cast a ballot.
- C. Method of Voting. Each prospective voter shall provide photo identification and, upon being identified as being a qualified voter of the Nation, shall be handed an unused official ballot and shall sign his or her name on a form kept for that purpose to acknowledge that he or she has received that ballot.
- D. Write In Candidates. Write in candidates shall not be qualified for election. Voters shall not be permitted to write-in candidates on the official ballot. If any voter actually votes for a write-in candidate despite this prohibition, the entire ballot shall be spoiled, meaning that the vote for that write-in candidate and any votes for any other candidates on the ballot shall not be counted. A rejected ballot shall be refolded and marked "REJECTED" in red ink by a designated teller. Each Member shall sign his or her name below the marking and the rejected ballot shall be placed in the ballot box at the end of the counting.
- E. Fifty (50) Foot Limit Notices.
 1. Notices. The Board shall make two (2) notices stating: "Fifty Foot Limit" or "50 Foot Limit." Before opening the polls, the Board shall post the two (2) fifty (50) foot limit notices approximately fifty (50) feet in different directions from the main outside entrance of the designated polling place that the election is being held.
 2. Campaigners. No campaigning by any person will be allowed on election day within a polling place or in a public manner within fifty (50) feet of the main outside entrance of a polling place.
 3. Effect. No persons shall be allowed to remain inside the fifty (50) foot limit while the polls are open except for the purpose of voting. After a voter has cast his or her ballot, he/she shall immediately leave the boundaries of the fifty (50) foot limit. Members and law enforcement are the only persons allowed to remain inside the fifty (50) foot limit.
- F. Spoiled Ballots. If a voter spoils a ballot and obtains another, the spoiled ballot shall be folded and marked SPOILED in red ink by a designated teller. Each Member shall sign his or her name below the marking and the spoiled ballots shall be placed in the ballot box at the end of the counting.
- G. Unused Ballots. Ballots unused at the end of the voting shall be tied or bundled together in groups of twenty-five (25) and then marked "UNUSED" in red ink. The Chairperson of the Board or designated Member shall initial below the red ink marking on each bundle.

- H. Rejected Ballots. If during the counting of the votes, the Members are unable to determine from a ballot the choices of the voter, that ballot shall be rejected. In other words, if three (3) seats are on the ballot for election and the Board cannot determine the voter's choices, the entire ballot shall be rejected. A rejected ballot shall be refolded and marked "REJECTED" in red ink by a designated teller. Each Member shall sign his or her name below the marking and the rejected ballot shall be placed in the ballot box at the end of the counting.
- I. The Count. As soon as the polls are closed and the last ballot has been deposited in the ballot box, the Board shall within one-half ($\frac{1}{2}$) hour begin counting the votes cast. With the exception that the Board may take a fifteen (15) minute break each hour, the count shall continue until completed and the results determined and declared. In no event shall the ballot box be left unattended. After the Board Chairperson unlocks the ballot box, the Chairperson or designated Member shall remove and open each ballot and shall read aloud the name of each candidate voted for as indicated on the ballot which shall be duly recorded by all tellers.
- J. Witnesses. The counting of the votes shall only be open for observation by tribal members, but they must remain at a reasonable distance from the Chairperson, tellers, and ballot box. The tribal members must remain quiet and in no way interfere with the orderly counting. If order cannot be kept, the Chairperson shall delay the counting until the tribal member is removed or such time as order has been re-established.
- K. Tally Sheet. The tally sheet shall list the titles of the office and underneath each title the names of the candidates for each office. At least three (3) tellers shall separately mark on a tally sheet. Each teller shall also place opposite the candidates' names the number of votes for each candidate as the votes are read aloud.
- L. The Abstract. At the end of the count, the Board shall determine the total votes cast for each candidate. The lists of the Tellers must match in order to be certified. These results shall be written down together with the number of rejected ballots, spoiled ballots, and unused ballots and shall be certified by the Chairperson.
- M. Return of Ballots to the Judiciary. The Board shall return to the Fort McDowell Yavapai Nation Judiciary the following:
1. The official returns; and
 2. The spoiled, rejected and unused ballots; and
 3. The signature roster, poll list, tally sheet and abstract; and
 4. The certification of election; and
 5. All other relevant election documentation; and
 6. The Judiciary shall track spoiled ballots and vote tallies, and hold the ballots until the time period to appeal has expired.
- N. Posting of Results. Official certified results shall be posted by the Board, in the same locations as indicated in Section 3-12(A)(5), no later than one (1) business day after the election. The posting of the certified results shall contain the signatures of all Members.
- O. Emergency Event. An "Emergency Event" is defined as an event, whether foreseeable or unforeseeable, that threatens the Board's ability to safely hold the Election as previously planned, including but not limited to a disaster, fire, accident, severe weather, pandemic, epidemic, outbreak, quarantine, shortage of power, or failure of infrastructure. If an Emergency Event occurs, the Board shall consult with the Police Department on the existing safety concerns. The Board shall have sole authority to make alternative plans for Election Day, including but not limited to the number of people allowed at the polls at any given time, the location and hours of the polls, and the counting of ballots. The Board shall also have the sole authority to mandate necessary voter safety precautions. The Board shall minimize any such changes to Election Day.

- P. Safety Zone. The Board shall consult with the Police Department on the plans for Election Day involving voter access to the polls, parking, and traffic control. The Board has sole discretion to implement any such Election Day plans for such a purpose.

Sec. 3-13. – Tribal Council Resignation and notice.

- A. Council Membership. Any member of the Fort McDowell Yavapai Nation Tribal Council who desires to run for a different office than that person is currently serving, and the Council Member's current office is not normally scheduled for a vote in the coming election, shall be required to provide written notice to the Board. The notice shall state that the Council Member will be running for a different office and the Council Member will resign from their current position effective on the date the newly elected officers are sworn into office. Such notice and notice of future resignation must be provided to the Board no later than the second (2nd) Monday in September prior to the scheduled election. This notice is required to allow the Board to hold a Special Election for the current office of the resigning Council Member on the same date as the upcoming election.
- B. Other Employment or Offices. No Council Member shall hold any other employment while serving on the Tribal Council, including, but not limited to, employment by the Fort McDowell Yavapai Nation government, the United States Government, or any elective office in any other governmental body. This section shall not prohibit a Council Member from serving as the Council's representative on boards, associations or committees.

Tribal Council shall issue written notice to the Council Member who has violated this Section. The Council Member shall have fourteen (14) days to relinquish such employment or elective office prohibited by this Section. If the Council Member fails to relinquish such employment or prohibited elective office, then the office shall become vacant and an election shall be held pursuant of Article X of the Constitution. This Subsection shall remain in effect so long as the Tribal Council is receiving a full salary or compensation equivalent to a full salary.

Sec. 3-14. - Absence from tribal employment for the purpose of voting.

A person entitled to vote at an election held within the Fort McDowell Yavapai Nation shall not be liable for any penalty nor deduction from salary or wages because of absence from tribal employment while voting. Requests shall be made for such absence prior to the date of the election, and the employer may specify the hours during which the employee may be absent.

Sec. 3-15. - Grounds for challenging voters.

- A. A person offering to vote may be orally challenged by the Board Members upon any of the following grounds:
1. That he or she is not the person whose name appears on the List of Qualified Voters; or
 2. That he or she has already voted via absentee ballot or in-person in the election that is presently being held.
- B. If the Board determines that the challenge is correct, the person shall be prohibited from casting any votes.

Sec. 3-16. - Tie votes.

In the case of a tie between one (1) or more candidates, a Runoff Election shall be held. The Runoff Election shall be held between five (5) days and ten (10) days after the election results are certified by the Board. In the event the Runoff Election results in another tie, the winner shall be determined by drawing cards with the high card winning or, if the tied candidates agree, another similar method (e.g. a coin toss, drawing of lots) mutually agreeable to the tied candidates.

Sec. 3-17. - Validity of elections; election challenges.

- A. Any certified candidate whose name appears on the ballot may challenge the conduct of the election. Such challenge must be filed in writing by close of business on the second (2nd) Thursday of January. The challenge shall be presented in writing to the Secretary of the Board. Within three (3) business days following the filing of the challenge, the Board shall hold a hearing to determine the validity of the challenge. The hearing shall be informal and the formal rules of evidence shall not apply. If there is more than one (1) challenge, the Board may consolidate those challenges. The Election Board shall ensure that all candidates in the election receive notice of the hearing either by personal service, or certified mail or both. The Board shall issue a written decision within five (5) business days following the hearing. The Board's decision shall include detailed findings of fact, the basis of its decision, and its decision.
- B. The decision of the Board may be appealed to the Tribal Court within two (2) business days after receipt of the Board decision. The findings and decisions of the Board shall be given deference by the Tribal Court, and the Court's review shall be limited to whether or not the decision of the Board is sustained by sufficient evidence on the record. The candidate challenging the decision shall have the burden of proving the decision was wrong by a clear and convincing evidence standard. Except in rare cases with good cause shown as to why the additional evidence should be considered, the Tribal Court will be limited to a review of the record of the Board proceedings and the evidence before the Board at the time of its decision. Unless good cause is shown for a hearing before the Tribal Court, the Tribal Court shall not hold a hearing. The Tribal Court shall review and determine its decision within seven (7) days following the filing of the appeal. The decision of the Tribal Court shall be final and non-appealable. No other court, including the Tribal Supreme Court, shall have jurisdiction over election challenges.

Sec. 3-18. - Principles for review of an election challenge.

For all election challenges filed pursuant to Section 3-17 above, the Board and the Tribal Court shall be guided by the following principles:

- A. Election results are presumed to be regular and proper; and
- B. Irregularities or misconduct in an election which does not tend to affect the result or impeach the fairness of the result will not be considered; and
- C. The Rule of Proportionality shall apply which requires that unless it can be shown for which candidate any illegal vote(s) were cast, the illegal vote(s) are deducted from the whole vote of the election in proportion to the votes cast, not from the candidate having the largest number of votes; and
- D. After an election, election provisions contained in this Ordinance and the Constitution are to be seen as directions unless the violations of the provisions either 1) obstructed a free and intelligent vote, or 2) affected an essential element of a valid election.

Sec. 3-19. - The Tribal Council during the pendency of an election challenge.

- A. It is the custom and tradition of the Tribal Council to have a full Tribal Council (all five (5) members) when considering and deciding major issues. If an election challenge has been filed, the Tribal Council existing prior to the election shall continue to hold their offices until all newly elected Council Members are sworn into office. This hold-over Tribal Council shall only hear and decide issues that must be decided due to time considerations or everyday issues where inaction would adversely affect the smooth running of the Nation. This power shall be exercised with extreme caution and the hold-over Tribal Council shall refrain from deciding controversial issues.
- B. If a decision of the Board is appealed to the Tribal Court, after the decision of the Tribal Court the candidates shall be sworn into office on the second (2nd) Tuesday in February or if that date has passed, as soon as practicable.
- C. No other court, including the Tribal Supreme Court, shall have jurisdiction over election challenges. If any election challenge is incorrectly filed in the Fort McDowell Supreme Court or any other court despite this prohibition, no court shall issue any stay, injunction or restraining order during the pendency of the appeal, such filing shall not stay or alter the swearing in of the candidates, and such appeal shall be dismissed as soon as practicable.

Secs. 3-20—3-49. - Reserved.

ARTICLE VI. - RECALL PROCEDURES AND SPECIAL ELECTIONS

Sec. 3-50. - Officers subject to recall.

Each elected official of the Nation is subject to recall from office by the qualified voters of the Nation. A number of qualified voters equaling forty (40) percent of the total number of qualified voters may, by Recall Petition, demand a Special Election for the recall of a particular elected official. Not more than two (2) elected officials may be subject to a recall Special Election during the same period of time.

Sec. 3-51. - Application for Recall Petition.

- A. In order to protect against fraud and deceit and to maintain the integrity of the election process pertaining to special elections, a person seeking to recall an elected official must first file an application with the Board to issue a Recall Petition on a form approved by the Board. Only qualified voters of the Nation may file an application for a Recall Petition and only qualified voters of the Nation may circulate Recall Petitions and collect signatures thereof.
- B. On the application form prepared by the Board, the applicant must include the following information: the person's name and address; a statement of intention to circulate and submit a Recall Petition; and a clear and concise statement of the grounds for recall.
 1. The clear and concise statement of the grounds for recall shall consist of not more than one hundred fifty (150) words. A clear and concise statement means that the statement must be understandable to an average person of voting age under the Nation's laws.
- C. Each application may be directed against only one (1) elected official. If an applicant desires to subject two (2) or more elected officials to recall, the applicant must submit a separate application for each elected official. This Subsection (C) does not change the rule that no more than two (2) elected officials may be subject to a recall Special Election during the same time period.
- D. An application for a Recall Petition may be submitted to any Member.
- E. The Member that receives an application shall immediately notify all Members and the Board shall convene a meeting within twenty-four (24) hours of receipt of the application. The Board shall assign a number to the application. If the Board approves the application pursuant to Section 3-52, the Board shall place this number on the lower right hand corner on each side of each signature sheet of an official Recall Petition form.
- F. The Board shall maintain a record of each application received, of the date of its receipt, and of the number assigned and issued to the applicant.

Sec. 3-52. - Approval of Recall Petition application.

- A. Within two (2) business days of receipt of an application for a Recall Petition, the Board shall determine whether the application satisfies the requirements of Article IX of the Nation's Constitution and the requirements of this Article V.
- B. Upon approval of the application, the Board shall have one (1) additional business day to:
 1. Provide written notice to the applicant and the elected official who is the subject of recall that the Board has approved the application;
 2. Prepare an official Recall Petition that contains signature lines for at least forty (40) percent of the qualified voters of the Nation to sign and include the applicant's general statement at the top portion of each signature page; and
 3. Issue the official Recall Petition to the applicant to begin circulating for signatures.
- C. Prior to the filing of the Recall Petition, the applicant may request additional official signature pages from the Board.

- D. In the event that the Board determines that the application does not comply with Article IX of the Nation's Constitution or this Article V, the Board shall have one (1) additional business day to provide written notice to the applicant that the Board will not hold a recall through a Special Election and the reasons for this decision.

Sec. 3-53. - Appeal of Board's decision to approve or deny Recall Petition application.

- A. Within five (5) business days of receipt of the Board's approval or denial of the application, the applicant or the elected official subject to recall may file a written appeal with the Board. Along with the notice of appeal, the applicant or the elected official shall submit his or her justifications and/or evidence indicating why the Board's decision was in error. The Board shall hold a hearing within seven (7) days after the receipt of the notice of appeal. The hearing shall be informal and the formal rules of evidence shall not apply. The Board shall issue a written opinion within seven (7) days after the hearing. The Board's decision shall include detailed findings of fact, the basis of its decision, and its decision. The applicant and the elected official shall immediately be notified by certified mail, personal service or both. If there is more than one (1) appeal, the Board may consolidate the hearings.
- B. An appeal of the decision of the Board may be made in writing to the Tribal Court within five (5) business days after receipt of the Election Board decision. The decision of the Election Board shall be given deference by the Tribal Court and the review shall be limited to whether the decision of the Board is sustained by sufficient evidence on the record. The Tribal Court shall decide the matter in an expedited manner no longer than thirty (30) days after receipt of the record. Except in rare cases with good cause shown as to why additional evidence should be considered, the Tribal Court's review will be limited to a review of the record of the Board proceedings and the evidence before the Board at the time of its decision. Unless good cause is shown for a hearing before the Tribal Court, the Court shall not hold a hearing.
- C. The filing of an appeal with the Tribal Court automatically stays a Special Election.

Sec. 3-54. - Form of Recall Petition.

Each signature page of the Recall Petition must include the applicant's statement for recall. Once the application is approved, neither the Board nor the applicant may amend or modify the language of the applicant's statement for recall. Each signature line must contain space for a qualified voter to: print and sign the person's first and last name and to print the date that the qualified voter signed the Recall Petition. The reverse side of each signature page must include an affidavit of verification to be signed by the person who collected the information and signatures appearing on the front side of the signature page.

Sec. 3-55. - Filing a Recall Petition; limitations; subsequent Recall Petition.

- A. A Recall Petition must be filed with the Election Board within sixty (60) calendar days after the Board has approved the application and issued the official Recall Petition to the applicant. If an official Recall Petition is not timely filed, it shall be deemed invalid and the Board shall not consider it.
- B. A Recall Petition shall not be circulated against an elected official during the first one hundred twenty (120) days of that person's office and not within ninety (90) days of the next General Election for that office.
- C. After one (1) Recall Petition and election, no further application for recall may be filed against the same elected official for a period of one (1) year after the results of the Special Election have been certified by the Board.

Sec. 3-56. - Collection of signatures.

- A. For purposes of a Recall Petition, a "qualified voter" means a person who is qualified to vote pursuant to Section 3-3(A) as of the date the person signs a Recall Petition.
- B. Every qualified voter signing a petition for a Special Election to recall shall do so in the presence of the person who is circulating the Recall Petition and who is to execute the affidavit of verification on the reverse side of each signature page. At the time of signing, the qualified voter shall sign and print his

or her first and last name and shall write, in the appropriate spaces following the signature, the date on which he or she signed the Recall Petition.

- C. The person circulating the Recall Petition (the "circulator") shall in an affidavit subscribed and sworn to by him or her verify that each of the names on the sheet was signed in his or her presence on the date indicated, and that in his or her belief each signer was a qualified voter of the Nation as of the date that each particular person signed the Petition. The affidavit shall be in a form prescribed by the Board and in addition to the statements set forth above in this Subsection (C), the affidavit shall also contain a statement by the circulator that the circulator is a qualified voter.
- D. Signatures obtained on Recall Petitions before the filing of an application for the issuance of official Recall Petition are void and shall not be counted in determining the legal sufficiency of the Recall Petition.
- E. A person circulating the Recall Petition shall not create extra copies of the signature pages. The applicant must request and shall receive additional original signature pages from the Board Secretary.

Sec. 3-57. - Verification procedure.

- A. Within five (5) business days after the submission of a Recall Petition to the Board, the Board shall perform the following:
 - 1. Remove the following from the Recall Petition:
 - i. Signature pages that do not contain a circulator's affidavit that is not completed and signed by the circulator;
 - ii. Signature pages that do not contain the clear and concise statement of the grounds for recall;
 - iii. Signature pages that do not contain the Board's assigned number on the lower right hand corner of each side of the signature page;
 - iv. Signature pages that are photocopied or otherwise reproduced; and
 - v. Signature pages that are not original pages provided to the applicant by the Election Board.
 - 2. Upon completing Subsection (A)(1), the Board shall remove the following signatures that are not qualified for verification by marking an "X" in red ink in the margin to the right side of the signature line:
 - i. If the signature or printed name of the qualified voter is missing;
 - ii. If the date on which the qualified voter signed is missing;
 - iii. If the date of the signature is a date that is prior to the issuance of the Recall Petition by the Board; and
 - iv. Signatures withdrawn by request of the signing qualified voter or the applicant. In order for the Election Board to comply with such request, the request must be made in writing.
 - 3. Upon completing Subsection (A), the Board shall count the number of signatures for verification on the remaining signature pages.
 - 4. If the total number of signatures qualified for verification does not equal at least forty (40) percent of the total number of qualified voters of the Nation, the Board shall return a copy of the Recall Petition including all signature pages to the applicant. If the time period set forth in Section 3-55(A) has not expired, the applicant may request and shall receive new signature pages from the Board Secretary and the applicant may submit additional signatures to the Election Board up to the last day provided for in Section 3-55(A). If the time period set forth in Section 3-55(A) has expired, the Petition fails.
 - 5. If the total number of signatures qualified for verification equals or exceeds forty (40) percent of the total number of qualified voters of the Nation, the Board shall verify all signatures by the following means:

- i. Determine whether each person signing the Recall Petition is a qualified voter of the Nation as of the date that the person signed the petition.
 - ii. Compare the signature of each person signing the Recall Petition to that person's signature on file with the Tribal government; if a signature does not appear to be similar to the applicable signature on file, the Board shall contact the person and verify whether the person actually signed the petition. If during the five (5) day period the Board, despite reasonable efforts, is not able to contact the person or the person does not respond to the Board's inquiry, the Board shall remove this person's name from the Recall Petition by marking an "X" in red ink in the margin to the right side of the signature line.
6. Upon completing Subsection (A)(5), the Board shall count the number of valid signatures and certify the result of the count. If the total number of signatures does not equal at least forty (40) percent of the total number of qualified voters of the Nation, the Board shall return a copy of the Recall Petition including all signature pages to the applicant. If the time period set forth in Section 3-55(A) has not expired, the applicant may request and shall receive new signature pages from the Board Secretary and the applicant may submit additional signatures to the Board up to the last day provided for in Section 3-55(A). If the time period set forth in Section 3-55(A) has expired, the Petition fails.
 7. If the total number of signatures equals or exceeds forty (40) percent of the total number of qualified voters of the Nation, the Board shall call a Special Election for the recall of the elected official to be held within thirty (30) calendar days pursuant to the notice requirements in Section 3-59.
 8. In the event that the Board determines that the applicant and/or the circulators of the petition have engaged in fraud to obtain signatures, including but not limited to the act of forgery, the Board shall declare the entire petition invalid. If the petition is declared invalid, none of the signatures in the petition shall be counted unless the signatures are proven by the applicant to be valid using the appeal process described in Section 3-58.

Sec. 3-58. - Appeal of Board's verification process.

- A. Within five (5) days of notice of the Board's decision that: (1) a Recall Petition lacked the requisite number of signatures, (2) that the Recall Petition met the requirements to call a Special Election, or (3) that the petition is invalid due to fraud, the applicant or the elected official subject to recall may file a written appeal with the Board challenging the Board's decision. Along with the notice of appeal, the applicant or the elected official shall submit his or her justifications and/or evidence indicating why the Board's decision was in error. The Board shall hold a hearing within seven (7) business days after the receipt of the notice of appeal. The hearing shall be informal and the formal rules of evidence shall not apply. The Board shall issue a written opinion within seven (7) business days after the hearing. The Board's decision shall include detailed findings of fact, the basis of its decision, and its decision. The appellant shall immediately be notified by certified mail, personal service or both. If there is more than one (1) appeal, the Board may consolidate the hearings. These hearings shall not be open to the public.
- B. An appeal of the decision of the Board may be made in writing to the Tribal Court within five (5) days after receipt of the Board decision. The decision of the Board shall be given deference by the Tribal Court and the review shall be limited to whether the decision of the Board is sustained by sufficient evidence on the record. The Tribal Court shall decide the matter in an expedited manner no longer than thirty (30) days after receipt of the record. Except in rare cases with good cause shown as to why additional evidence should be considered, the Tribal Court's review will be limited to review of the record of the Board proceedings and the evidence before the Board at the time of its decision. Unless good cause is shown for a hearing before the Tribal Court, the Court shall not hold a hearing.
- C. The filing of an appeal with the Tribal Court automatically stays a Special Election.

Sec. 3-59. - Notice of Recall Special Election.

The Board shall mail written notice of the date and place of the Special Election and hours of voting to all qualified voters. The notice shall also include the procedures for those persons that want to vote via absentee ballot.

Sec. 3-60. - Recall Special Election ballot.

- A. The Board shall prepare the official recall Special Election ballot form. On the ballot form, the Board shall pose the following question: "Should _____ be removed from the Office of _____?" Following the question shall be two (2) boxes. One (1) box shall have the word "yes" typed inside the box and the second box shall have the word "no" typed inside the box. The ballot shall inform voters that in order for a person to indicate his or her vote, the voter must circle either the "yes" or the "no" box to answer the question posed.
- B. If there are two (2) qualifying petitions against separate officials, the Board shall include both officials on the same ballot and follow the instructions contained in Subsection (A) for each official.
- C. Qualified voters who are temporarily absent or otherwise unable to cast their ballots at the polling place may request an absentee ballot. Such requests must be in writing and delivered to the Board at least thirty (30) calendar days prior to the date set for the Special Election. Those rules set forth in Section 3-4 that are not in conflict with the rules in Article VI shall be used for purposes of absentee ballots and procedures.
- D. Rejected Ballots. If during the counting of the votes, the Members of the Board are unable to determine from a ballot all of the choices of the voter, that ballot shall be rejected. Ballots marked both "yes" and "no" will be rejected. Ballots with neither a "yes" nor "no" designation will be rejected. Ballots without clear, unambiguous designations will also be rejected. A rejected ballot shall be marked "REJECTED" in red ink by a designated teller. Each Member shall initial his or her name below the marking and the rejected ballot shall be placed in the ballot box at the end of the counting.
 - 1. In the event that there are two (2) elected officials subject to recall, and the Board is able to determine the choice of the voter pertaining to one (1) elected official, but not the other elected official, then the Election Board shall count the portion of the Ballot for which it is able to determine the choice of the voter and reject the portion of the Ballot for which it is unable to determine the choice of the voter.

Sec. 3-61. - Election challenges.

- A. The applicant or the elected official subject to the Special Election may challenge the Special Election. Such a challenge must be filed in writing within five (5) days following the Certification of the Special Election by the Board. The challenge shall be presented in writing to the Board Secretary. Within seven (7) business days following the filing of the challenge, the Election Board shall hold a hearing to determine the validity of the challenge. The hearing shall only be open to those persons who qualify under Section 3-56(A). The hearing shall be informal and the formal rules of evidence shall not apply. If there is more than one (1) challenge, the Board may consolidate the challenges. The Board shall ensure that both the applicant and the elected official subject to the Special Election receive notice of the hearing either by personal service, certified mail, or both. The Board shall issue a written decision within seven (7) business days following the hearing. The Board's decision shall include detailed findings of fact, the basis of its decision, and its decision.
- B. The decision of the Board may be appealed to the Tribal Court within five (5) days after receipt of the Board's decision. The findings and decisions of the Board shall be given deference by the Tribal Court and the Court's review shall be limited to whether or not the decision of the Board is sustained by sufficient evidence on the record. The person challenging the decision shall have the burden of proving the decision was wrong by a clear and convincing evidence standard. Except in rare cases with good cause shown as to why the additional evidence should be considered, the Tribal Court's review will be limited to a review of the record of the proceedings and the evidence before the Board at the time of its decision. Unless good cause is shown for a hearing before the Tribal Court, the Tribal Court shall not hold a hearing. The Tribal Court shall hear and determine the appeal in an expedited manner no longer than thirty (30) days following the filing of the appeal.
- C. The filing of an appeal with the Tribal Court automatically stays a Special Election.

Sec. 3-62. - Initiative and Referendum Special Elections.

- A. The Constitution of the Fort McDowell Yavapai Nation, Article XI, provides for "Initiative and Referendum." Article XI, Sections 1 and 2. The Initiative process establishes the requirements for the right of tribal members to call a vote to consider the enactment of any ordinance or resolution, or other official action. In order to commence the Initiative process, the Board upon receipt of a petition signed by not less than thirty (30) percent of the total number of qualified voters of the Nation shall hold an election to consider the enactment of such ordinance or resolution, or other official action.
- B. The Referendum process establishes the procedures for Council to submit a proposed resolution or ordinance to a vote of the tribal members prior to the adoption of such resolution or ordinance. Nothing in this Ordinance shall require Tribal Council to submit any proposed ordinance or resolution to a Referendum prior to adoption. Tribal Council shall call a Referendum by a duly passed resolution.

Sec. 3-63. - Posting of Contractual Obligations for Initiative process.

- A. For purpose of informing tribal members of certain Contractual Obligations, within three (3) days following the adoption of any resolution approving a Contractual Obligation, the Nation's Office of General Counsel shall direct the Tribal Secretary to post a notice that the Tribal Council has approved a Contractual Obligation. The notice shall be approved by the Office of General Counsel prior to posting and shall include: (i) the number of the resolution approving the Contractual Obligation and the date of adoption; (ii) the name of the Contractual Obligation and/or the related project; (iii) contact information for the location where the Contractual Obligation may be reviewed; (iv) reference to the tribal members' right to commence an Initiative process under Article XI, Section 1 of the Nation's Constitution; (v) the deadline for submitting an Initiative petition to the Election Board; and (vi) contact information to obtain the approved form of Initiative petition. A notice may include multiple resolutions related to a single project. The notice shall be posted for not less than ten (10) consecutive days at one (1) or more conspicuous location(s) at the Nation's primary Government Office and the Recreation Center.
- B. In order to protect confidentiality, the Contractual Obligation shall not be posted or copied and distributed to the tribal members but may be available for review, in whole or in part, solely at the location described in the notice. Depending on the sensitivity of the Contractual Obligation, a tribal member may be required to sign a confidentiality and non-disclosure agreement prior to review of a Contractual Obligation.
- C. In accordance with under Article XI, Section 1 of the Nation's Constitution, no Initiative process may be commenced more than thirty (30) days following the adoption of the resolution approving the Contractual Obligation.
- D. Failure to strictly comply with the posting requirements of this Section 3-63 shall not render a Contractual Obligation void or invalid.
- E. Nothing in this Section 3-63 shall prevent a tribal member from commencing a lawful Initiative process under Section 3-64 or any other contract or resolution for which this Section 3-63 does not apply.
- F. Nothing in this Section 3-63 shall prevent the Tribal Council from posting notice of any other contract or resolution in accordance with this Section if the Tribal Council determines that posting such contract or resolution would be in the best interest of the Nation.

Sec. 3-64. - Application for petition for an Initiative.

- A. In order to protect against fraud and deceit and to maintain the integrity of the election process pertaining to special elections, a person seeking to circulate a petition for an Initiative must first file an application with the Board to circulate a petition on a form approved by the Board. Only qualified voters of the Nation may file an application for the issuance of an Initiative petition and only qualified voters of the Nation may circulate such petitions and collect signatures thereof.
- B. On the application form prepared by the Board, the applicant must include the following information: the person's name and address; a statement of intention to circulate and submit an Initiative; and a clear and concise statement of the ordinance or resolution, or other official action to be considered.

The clear and concise statement of the grounds consists of not more than one hundred (100) words. A clear and concise statement means that the statement must be understandable to an average person of voting age under the Nation's laws.

- C. Each application for an Initiative petition shall address only one (1) ordinance, resolution, or other official action, to be considered; except in the case of a project to be undertaken by the Nation or its wholly owned enterprises that involves multiple Contractual Obligations (e.g., a project to build and finance a hotel). In the case of a project, a single Initiative petition may include all related Contractual Obligations.
- D. An application for an Initiative petition may be submitted to any Member of the Board.
- E. The Member that receives an application shall immediately notify all Members and the Board shall convene a meeting within three (3) business days of receipt of the application. The Board shall assign a number to the application. If the Election Board approves the application pursuant to Sec. 3-65, the Board shall place this number on the lower right hand corner on each side of each signature sheet of an official Initiative petition form.
- F. The Board shall maintain a record of each application received, of the date of its receipt, and of the number assigned and issued to the applicant.

Sec. 3-65. - Approval of Initiative application.

- A. Within three (3) days of receipt of an application for an Initiative petition, the Board shall meet to determine whether the application satisfies the requirements of Article XI, Section 1, Initiative, of the Nation's Constitution and the requirements of this Chapter.
- B. Upon approval of the application, the Board shall meet with the applicant to determine the wording of the Petition as soon as possible to:
 - 1. Provide applicant an opportunity to discuss the petition's proposed language.
 - 2. Clarify and answer any questions the applicant may have on procedures and requirements.
- C. Within five (5) business days of the meeting with applicant, issue the official Initiative petition to the applicant to begin circulating for signatures.
- D. The applicant may request additional official petitions with signature pages from the Election Board to allow other qualified voters to obtain signatures with verification by collector.
- E. In the event that the Election Board determines that the application does not comply with Article X of the Nation's Constitution or this Article VI, the Board shall provide written notice to the applicant that the Board will not hold an Initiative Special Election and the reasons for this decision.

Sec. 3-66. - Appeal of election board's decision to approve or deny Initiative application.

- A. Within five (5) days of receipt of the Board's approval or denial of the Initiative application, the applicant may file a written appeal with the Board. Along with the notice of appeal, the applicant shall submit his or her justifications and/or evidence indicating why the Board's decision was in error. The Board shall hold a hearing within three (3) business days after the receipt of the notice of appeal. The hearing shall be informal and the formal rules of evidence shall not apply. The Board shall issue a written opinion within seven (7) business days after the hearing. The Board's decision shall include any findings of fact, the basis of its decision, and its decision. The applicant shall immediately be notified by certified mail, personal service or both. This hearing shall be open to enrolled tribal members of the Nation only.
- B. An appeal of the decision of the Board may be made in writing to the Tribal Court within five (5) days after receipt of the Board decision. The decision of the Election Board shall be given deference by the Tribal Court and the review shall be limited to whether the decision of the Board is sustained by sufficient evidence on the record. The Tribal Court shall decide the matter in an expedited manner no longer than seven (7) days after receipt of the record. Except in rare cases with good cause shown as to why additional evidence should be considered, the Tribal Court's review will be limited to a review of the record of the proceedings and the evidence before the Board at the time of its decision. Unless good cause is shown for a hearing before the Tribal Court, the Court shall not hold a hearing.

- C. The filing of an appeal with the Tribal Court automatically stays an Initiative Special Election. The decision of the Tribal Court is not subject to appeal.

Sec. 3-67. - Form of Initiative petition.

Each signature page of the Initiative petition must include the statement of the resolution or ordinance being considered by the Election Board. Once the application is approved, neither the Board nor the applicant may amend or modify the language. Each signature line must contain space for a qualified voter to print and sign the person's first and last name, and to print the date that the qualified voter signed the petition. The reverse side of each signature page must include an affidavit of verification to be signed by the person who collected the information and signatures appearing on the front side of the signature page.

Sec. 3-68. - Collection of signatures.

- A. For purposes of an Initiative petition, a "qualified voter" means a person who is qualified to vote pursuant to Section 3-3(A) as of the date the person signs an Initiative petition.
- B. Every qualified voter signing a Petition for an Initiative Special Election shall do so in the presence of the person who is circulating the petition and who is to execute the affidavit of verification on the reverse side of each signature page. At the time of signing, the qualified voter shall sign and print his or her first and last name and shall write, in the appropriate spaces following the signature, the date on which he or she signed the petition.
- C. The person circulating the petition (the "circulator") shall in an affidavit subscribed and sworn to by him or her verify that each of the names on the sheet was signed in his or her presence on the date indicated, and that in his or her belief each signer was a qualified voter of the Nation as of the date that each particular person signed the petition. The affidavit shall be in a form prescribed by the Board and in addition to the statements set forth above in this subsection (C), the affidavit shall also contain a statement by the circulator that the circulator is a qualified voter.
- D. Signatures obtained on Initiative petitions before the filing of an application for the issuance of an official petition are void and shall not be counted in determining the legal sufficiency of the petition.
- E. A person circulating the Initiative petition may not create extra copies of the signature pages comprising the Initiative petition for the purpose of collecting additional signatures. However, the applicant may request and shall receive additional original signature pages from the Board.

Sec. 3-69. - Verification procedure.

- A. The Board shall follow the verification procedures in Section 3-57 of this Chapter, recognizing the different requirements in Article XI of the Nation's Constitution.
- B. The appeal process to the Board's verification procedure shall follow the process provided for in Sec. 3-58 of this Chapter. Within five (5) business days after the submission of an Initiative petition to the Election Board, the Election Board shall perform the following:
 - 1. Remove the following from the Initiative petition:
 - i. Signature pages that do not contain a circulator's affidavit that is not completed and signed by the circulator;
 - ii. Signature pages that do not contain the clear and concise statement of the resolution or ordinance subject to the Initiative election;
 - iii. Signature pages that do not contain the Board's assigned number on the lower right hand corner of each side of the signature page;
 - iv. Signature pages that are photocopied or otherwise reproduced; and
 - v. Signature pages that are not original pages provided to the applicant by the Board.

2. Upon completing Subsection (B)(1), the Board shall remove the following signatures that are not qualified for verification by marking an "X" in red ink in the margin to the right side of the signature line:
 - i. If the signature or printed name of the qualified voter is missing;
 - ii. If the date on which the qualified voter signed is missing;
 - iii. If the date of the signature is a date that is prior to the issuance of the Initiative petition by the Board; and
 - iv. Signatures withdrawn by request of the signing qualified voter or the applicant. In order for the Board to comply with such request, the request must be made in writing.
3. Upon completing Subsection (A)(2), the Board shall count the number of signatures for verification on the remaining signature pages.
4. If the total number of signatures qualified for verification does not equal at least thirty (30) percent of the total number of qualified voters of the Nation, the Board shall return a copy of the Initiative petition including all signature pages to the applicant. If the time period set forth in Section 3-55(A) or 3-63(C), as the case may be, has not expired, the applicant may request and shall receive new signature pages from the Board and the applicant may submit additional signatures to the Election Board up to the last day provided for in Section 3-55(A) or 3-63(C), as the case may be. If the time period set forth in Section 3-55(A) or 3-63(C), as the case may be, has expired, the petition fails.
5. If the total number of signatures qualified for verification equals or exceeds thirty (30) percent of the total number of qualified voters of the Nation, the Board shall verify all signatures by the following means:
 - i. Determine whether each person signing the Initiative petition is a qualified voter of the Nation as of the date that the person signed the petition.
 - ii. Compare the signature of each person signing the Initiative petition to that person's signature on file with the Tribal government; If a signature does not appear to be similar to the applicable signature on file, the Board shall contact the person and verify whether the person actually signed the petition. If during the five (5) day period the Election Board, despite reasonable efforts, is not able to contact the person or the person does not respond to the Board's inquiry, the Board shall remove this person's name from the Initiative petition by marking an "X" in red ink in the margin to the right side of the signature line.
6. Upon completing Subsection (A)(5), the Board shall count the number of valid signatures and certify the result of the count. If the total number of signatures does not equal at least thirty (30) percent of the total number of qualified voters of the Nation, the Board shall return a copy of the Initiative petition including all signature pages to the applicant. If the time period set forth in Section 3-55(A) or 3-63(C), as the case may be, has not expired, the applicant may request and shall receive new signature pages from the Election Board and the applicant may submit additional signatures to the Board up to the last day provided for in Section 3-55(A) or 3-63(C), as the case may be. If the time period set forth in Section 3-55(A) or 3-63(C), as the case may be, has expired, the petition fails.
7. If the total number of signatures equals or exceeds thirty (30) percent of the total number of qualified voters of the Nation, the Board shall call an Initiative Special Election to be held within thirty (30) calendar days pursuant to the notice requirements in Section 3-59.
 - i. In the event that the Board determines that the applicant and/or the circulators of the Initiative petition have engaged in fraud to obtain signatures, including but not limited to the act of forgery, the Board shall declare the entire petition invalid. If the petition is declared invalid, none of the signatures in the petition shall be counted unless the signatures are proven by the applicant to be valid using the appeal process described in Section 3-58.

Sec. 3-70. - Appeal of Board's verification process.

- A. Within five (5) days of notice of the Board's decision that: (1) an Initiative petition lacked the requisite number of signatures, (2) that the Initiative petition met the requirements to call a Special Election, or (3) that the Initiative petition or certain signature pages of the Initiative petition are invalid due to fraud, the applicant or the Nation may file a written appeal with the Board challenging the Board's decision. Along with the notice of appeal, the appellant shall submit his or her justifications and/or evidence indicating why the Election Board's decision was in error. The Board shall hold a hearing within seven (7) business days after the receipt of the notice of appeal. The hearing is open to persons who qualify under Section 3-56(A). The hearing shall be informal and the formal rules of evidence shall not apply. The Election Board shall issue a written opinion within seven (7) business days after the hearing. The Election Board's decision shall include detailed findings of fact, the basis of its decision, and its decision. The appellant shall immediately be notified by certified mail, personal service, or both. If there is more than one (1) appeal, the Board may consolidate the hearings.
- B. An appeal of the decision of the Board may be made in writing to the Tribal Court within five (5) days after receipt of the Board decision. The decision of the Board shall be given deference by the Tribal Court and the review shall be limited to whether the decision of the Election Board is sustained by sufficient evidence on the record. The Tribal Court shall decide the matter in an expedited manner no longer than thirty (30) days after receipt of the record. Except in rare cases with good cause shown as to why additional evidence should be considered, the Tribal Court's review will be limited to review of the record of the Board proceedings and the evidence before the election Board at the time of its decision. Unless good cause is shown for a hearing before the Tribal Court, the Court shall not hold a hearing.
- C. The filing of an appeal with the Tribal Court automatically stays an Initiative Special Election.

Sec. 3-71. - Notice of initiative Special Election.

- A. The Board shall mail written notice of the date and place of the Initiative Special Election, the Initiative petition language and hours of voting to all qualified voters. The notice shall also include the procedures for those voters that want to vote via absentee ballot.
- B. The Board may also include in the notice copies of any proposed ordinance or copies of an existing ordinance or resolution that is the subject of the Initiative petition.

Sec. 3-72. - Election ballot for an Initiative.

- A. The Board shall prepare the official Initiative Special Election ballot form. On the ballot form, the Board shall pose the approved Initiative petition language as a question. Following the question shall be two (2) boxes. One (1) box shall have the word "yes" typed inside the box and the second box shall have the word "no" typed inside the box. The ballot shall inform voters that in order for a person to indicate his or her vote, the voter must circle either the "yes" or the "no" box to answer the question posed.
- B. Qualified voters who are temporarily absent or otherwise unable to cast their ballots at the polling place may request an absentee ballot. Such requests must be in writing and delivered to the Board at least thirty (30) calendar days prior to date set for the Special Election. Those rules set forth in Section 3-4 that are not in conflict with the rules in Article VI shall be used for purposes of absentee ballots and procedures.
- C. Rejected Ballots. If during the counting of the votes, the Members of the Board are unable to determine from a ballot all of the choices of the voter, that ballot shall be rejected. Ballots marked both "yes" and "no" will be rejected. Ballots with neither a "yes" nor "no" designation will be rejected. Ballots without clear, unambiguous designations will also be rejected. A rejected ballot shall be marked "REJECTED" in red ink by a designated teller. Each Member shall initial his or her name below the marking and the rejected ballot shall be placed in the ballot box at the end of the counting.

Sec. 3-73. - Election challenges.

- A. Challenges to Initiatives are limited to a challenge of approved Initiative petition language. Such a challenge must be filed in writing within seven (7) days following the issuance of the Notice of the Initiative Special Election by the Board. The challenge shall be presented in writing to any Member.

Within three (3) business days following the filing of the challenge, the Board shall hold a hearing to determine the validity of the challenge. The hearing shall be informal and the formal rules of evidence shall not apply. If there is more than one (1) challenge, the Board may consolidate the challenges. The Board shall issue a written decision within two (2) business days following the hearing. The Board's decision shall include the challenge, any findings of fact and the basis of its decision, and its decision.

- B. Challenges to the election procedures shall follow the process provided for in Section 3-61.
- C. The filing of an appeal with the Tribal Court automatically stays the results of an Initiative Special Election.

Sec. 3-74. - Applicability of election rules.

As a general rule, the rules pertaining to elections set forth in Articles I, II, III, IV and V of this Ordinance shall govern the voting procedure for Special Elections unless a particular rule is in conflict with a rule set forth in Article VI of this Ordinance and then Article VI shall be controlling.

ARTICLE VII. – CAMPAIGNING

Sec. 3-75. - Applicability.

Candidates for all elections are responsible for funding and conducting their campaigns in an ethical manner, subject to the provisions stated in this Article. The provisions stated in this Article will be monitored and sanctioned by the Board unless otherwise stated.

Sec. 3-76. - Restrictions.

- A. Campaigning shall begin only upon receiving written notification of the official list of all certified candidates from the Board. Any campaign material posted prior to this notification will result in a weekly five hundred dollar (\$500.00) fine assessed by the Board to the candidate until such campaign material is removed. The fine(s) shall be deposited in the Nation's general fund to assist the Tribal government's cost of administering elections.
- B. Each candidate is responsible for adhering to the Nation's Law and Order Code and any signage restrictions imposed by the Nation's Land Use Department, Planning Department or other designated department. The Nation's Land Use Department and Planning Department shall be responsible for monitoring and sanctioning violations by candidates.
- C. All campaign material, including but not limited to signage, must be removed within fourteen (14) days after the election. Any campaign material that is not removed by this deadline will result in a weekly five hundred dollar (\$500.00) fine assessed by the Board to the candidate until such campaign material is removed. The fine(s) shall be deposited in the Nation's general fund to assist the Tribal government's cost of administering elections.
- D. Candidates are not allowed to campaign immediately before, during or immediately after any celebratory tribal event or other tribal event hosted by the Nation.
- E. Candidates who are employed with the Nation are not allowed to personally campaign during tribal employment working hours.
- F. Candidates are not allowed to post campaign material on or within any of the Nation's governmental buildings or enterprises.

Sec. 3-77. – Campaign funding.

Candidates are strictly prohibited from using any tribal asset of any kind for campaign purposes. Tribal assets shall include, but not be limited to, tribal money, use of tribal employment working hours, or resources and items purchased with tribal money.

Sec. 3-78. – Campaign funding challenges.

- A. A candidate or enrolled tribal member may file a written complaint only regarding another candidate using tribal assets for campaign purposes with the Secretary of the Board. The complaint must specify the candidate and state the cause of the complaint. Such complaints may be filed up to thirty (30) business days prior to the date of an election. The complainant shall be responsible for sending via certified mail, return receipt requested, a copy of the complaint to the candidate who is the subject of the complaint and provide proof of such to the Board.
- B. The candidate who is the subject of the complaint shall have three (3) business days from the day of receipt of notice of the complaint to file a response to the complaint with the Secretary of the Board. The Secretary shall share the complaint and the response to the complaint immediately to the Board.
- C. The Board shall within three (3) business days from the day of receipt of a response to the complaint review the material and make a determination as to the validity of the complaint. The Board shall issue a written opinion that recognizes either a defense of ignorance on the part of the candidate or misfeasance or malfeasance. The written opinion shall be provided to the complainant, the candidate who is the subject of the complaint, and Tribal Council. This information shall otherwise be treated as confidential and not be available to the public for review.
- D. Based upon the finding of the Board, the candidate may be subject to a fine up to five hundred dollars (\$500.00), and/or a public censorship and/or a private censorship. The fine(s) shall be deposited in the Nation's general fund to assist the Tribal government's cost of administering elections.
- E. An appeal of the decision of the Board may be made in writing to the Tribal Court within five (5) days after receipt of the Board decision. The decision shall be given deference by the Tribal Court and the review shall be limited to whether the decision of the Board is sustained by sufficient evidence on the record. The Tribal Court shall decide the matter in an expedited manner no longer than fifteen (15) days after receipt of the record. Except in rare cases with good cause shown as to why additional evidence should be considered, the Tribal Court's review will be limited to review of the record of the proceedings and the evidence before the Board at the time of its decision. Unless good cause is shown for a hearing before the Tribal Court, the Court shall not hold a hearing.
- F. The filing of an appeal with the Tribal Court automatically stays a Special Election.

Sec. 3-79. – Payment of fines.

- A. All candidates must pay any fine referenced throughout this Article within thirty (30) days of the date the fine is assessed against the candidate. If a candidate fails to pay the fine(s) within the thirty (30) day timeframe, the candidate must promptly communicate with the Board to make arrangements for a contractual payment plan. If the payment plan is not arranged, then the Nation may file a civil complaint in the Tribal Court.
- B. If a candidate fails to pay any fine(s) referenced throughout this Article by the next election, then the candidate will be ineligible to run for office.