

**SAN CARLOS APACHE TRIBE
SAN CARLOS APACHE INDIAN RESERVATION
SAN CARLOS, ARIZONA**

RESOLUTION

No. AP-26-095

**(Amending the San Carlos Apache Tribe Election Ordinance to provide more time for
Absentee Ballot Requests and Absentee Ballot Mailing)**

WHEREAS, the San Carlos Apache Tribe (“Tribe”) is a federally recognized Indian Tribe organized pursuant to the provisions of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1955 (49 Stat. 378); and

WHEREAS, the San Carlos Council (“Council”) has the authority, among other things, to “represent the Tribe and act in all matters that concern the welfare of the Tribe, and to make decisions not inconsistent with or contrary to [the Tribe's] Constitution and Bylaws,” and to “veto the sale, disposition, lease or encumbrance of tribal lands, interest in lands ... that may be authorized by any agency or employee of the government”, which includes the implied power to execute residential leases, pursuant to Article V, Sections 1(a) and (e) of the Amended Constitution; and

WHEREAS, the Council desires to amend the San Carlos Apache Tribe Election Ordinance (“Election Ordinance”) to provide for additional time for voters to request an absentee ballot in a Tribal Election and to provide for additional time for voters to mail in an absentee ballot in a Tribal election; and

WHEREAS, the San Carlos Apache Tribe Election Board has reviewed and approved the attached amended Election Ordinance and recommends that the Council approve the attached amended Election Ordinance; and

WHEREAS, the Council finds that approving the attached amended Election Ordinance will ensure that tribal members will be provided a greater opportunity to vote in upcoming elections and that approving the amended Election Ordinance is in the best interest of the Tribe; and

BE IT RESOLVED by the Council of the San Carlos Apache Tribe that:

1. The Council hereby approves the attached amended San Carlos Apache Tribe Election Ordinance.
2. The Chairman of the Tribe or his designee is hereby authorized to sign all documents necessary to effectuate this Resolution.

CERTIFICATION

I, the undersigned, Secretary of the San Carlos Council, hereby certify that the Council is composed of eleven (11) members, of whom ten (10), constituting a quorum, were at a Special Meeting hereto held on the **14th** day of **April, 2026**, and that the foregoing Resolution No. **AP-26-095** was duly adopted by a vote of **FOR: 9; OPPOSED: 0; ABSTAINED: 0;** of the Council pursuant to Article V, Section 1 (a) of the Amended Constitution and Bylaws of the San Carlos Apache Tribe, effective, February 24, 1954, according to the following vote tabulation:

<u>Council Member</u>	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Not Present</u>
Terry Rambler, Chairman	___	___	___	___
Tao Etpison, Vice Chairman	<u> x </u>	___	___	___
Ina Salter, Seven Mile	<u> x </u>	___	___	___
John Antonio, Jr., Seven Mile	<u> x </u>	___	___	___
Barbara May, Gilson Wash	<u> x </u>	___	___	___
Simon Hooke, Gilson Wash	<u> x </u>	___	___	___
Valerie Key, Peridot	<u> x </u>	___	___	___
Dr. John Bush, Peridot	<u> x </u>	___	___	___
Jonathan Kitcheyan, Bylas	<u> x </u>	___	___	___
Ned Anderson, Jr., Bylas	<u> x </u>	___	___	___
Eugene D. Nozie, Bylas	___	___	___	<u> x </u>

Santana Dillon

Santana Dillon
Council Secretary
SAN CARLOS APACHE TRIBE



San Carlos Apache Tribe Election Ordinance

Revised April 14, 2026

By Resolution No. AP-26-095

and

Ordinance No. 2026-001

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SAN CARLOS APACHE TRIBE

ELECTION ORDINANCE

No. 2026-001

ARTICLE I. DEFINITIONS

Unless otherwise suggested by the context of the surrounding language, the following definitions apply:

- 1) “Abstract” means the official summary of the vote count.
- 2) “Clear and Convincing Evidence” means that the evidence presented by a party during a hearing is more highly probable to be true than not and the General Election Board has a firm belief or conviction in it.
- 3) “Canvass” means the delivery and public reading of the Abstract during an open meeting of the San Carlos Apache Tribal Council in order to certify election results.
- 4) “Physically Reside” means the act of living or staying in a specified place where such specified place constitutes the principal center of one’s family life.
- 5) “Voter” means an enrolled member of the San Carlos Apache Tribe who is at least eighteen (18) years of age on the date of a Tribal election.

ARTICLE II. ELIGIBILITY OF VOTERS AND CANDIDATES

1) VOTER ELIGIBILITY

All enrolled members of the San Carlos Apache Tribe (“Tribe”) who are eighteen (18) years of age or over on the date of a Tribal election shall be eligible to vote. An “enrolled member” is defined in Article III of the Amended Constitution and Bylaws of the San Carlos Apache Tribe, effective February 24, 1954.

a) AGE

- i) An enrolled member who is at least eighteen (18) years of age shall be considered an eligible Voter of the Tribe. The names of such persons shall automatically be included in the tentative list of eligible Voters for each voting district.
- ii) An enrolled member who is at least eighteen (18) years of age on the first Tuesday in November shall be considered an eligible Voter of the Tribe for the General Election. The names of such persons shall automatically be included in the final official list of eligible Voters for each voting district.

b) RESIDENCE

- i) Residence, for the purpose of casting a vote, shall mean that the eligible Voter has Physically Resided within the boundaries of the San Carlos Apache Reservation for six (6) consecutive months immediately prior to the Primary Election. An eligible Voter shall be entitled to vote only in a district in which he or she has Physically Resided for six (6) consecutive months immediately prior to the Primary Election.
- ii) When an eligible Voter has not Physically Resided within the boundaries of the San Carlos Apache Reservation for six (6) consecutive months immediately prior to the date of the Primary Election, the residence of the Voter shall be the location of the “physical home” of the member’s mother.

If the Voter’s mother is deceased, then the residence of the Voter shall be the location of the “physical home” of the member’s mother at the time of the mother’s death.

In cases where the mother is a non-member of the San Carlos Apache Tribe, then the residence of the Voter shall be the location of the father’s “physical home” or the location of the father’s “physical home” at the time of the father’s death.

- iii) Temporary absence from the Reservation for purposes of employment, education, military service, illness or physical disability shall not otherwise affect the residence of the Voter, where such Voter has otherwise qualified under this section.

2) CANDIDATES

a) QUALIFICATIONS

Prospective candidates for the Office of Chairman, Vice-Chairman, or for Tribal Council membership may be eligible to run for office provided the following qualifications are met:

- i) Must be an enrolled member of the Tribe;
- ii) Must be at least twenty-five (25) years of age;
- iii) Must be able to read and write;
- iv) Must not have been convicted of a felony regardless of whether the candidate's felony conviction has been expunged or whether the candidate's civil liberties have been restored by any court;
- v) Must not have been convicted of a misdemeanor involving moral integrity within the twelve (12) month period immediately preceding the election. Misdemeanors involving moral integrity are defined pursuant to Article II, Section 1 of the Amended Constitution and Bylaws of the San Carlos Apache Tribe, effective February 24, 1954.

b) RESIDENCE

- i) Residence, for the purpose of candidacy for Tribal Chairman or Tribal Vice-Chairman, shall mean that the candidate has Physically Resided within the boundaries of the Reservation for six (6) consecutive months immediately prior to the date that the candidate submits a Letter of Intent for an elected office of the San Carlos Apache Tribe.
- ii) Residence, for the purpose of candidacy for a District Tribal Council Member Office, shall mean that the candidate has Physically Resided within the District of the Reservation which he or she is to represent for six (6) consecutive months immediately prior to the date that the candidate submits a Letter of Intent for an elected office of the San Carlos Apache Tribe;
- iii) Residence, for the purpose of an elected official, shall mean that the elected official must Physically Reside within the boundaries of the San Carlos Apache Reservation for the duration of his or her term of office.

**ARTICLE III. PROCESS TO DECLARE CANDIDACY
AND PRIMARY ELECTION**

1) **PROCESS TO DECLARE CANDIDACY**

a) **PREPARATION OF LETTER OF INTENT**

The General Election Board shall prepare the Letter of Intent Form ("Letter of Intent") which shall include the candidate's full legal name and the position for which the candidate desires to run. The Letter of Intent shall also include a certification provision in which a candidate certifies that he or she is, in fact, eligible for an elected office of the San Carlos Apache Tribe under the Constitution and Ordinances of the San Carlos Apache Tribe.

b) **SUBMISSION OF LETTER OF INTENT**

Any member of the San Carlos Apache Tribe eligible to run for an elected office of the San Carlos Apache Tribe may do so by submitting a Letter of Intent.

The General Election Board shall establish the opening date and deadline for submission of the Letter of Intent. The General Election Board shall provide notice of the opening date and submission deadline to the general public.

c) **CERTIFICATION**

The Letter of Intent shall be signed before a notary public.

d) **BACKGROUND INVESTIGATION/WAIVER REQUIRED**

Any eligible member who submits a Letter of Intent form for the Office of Chairman, Vice-Chairman or Council Member shall also sign a waiver allowing the General Election Board to conduct an investigation with Tribal, county, state and federal law enforcement agencies to obtain information about the candidate's legal history, including, but not limited to information about felony or misdemeanor convictions pursuant to the provisions of Article II, Section I, of the Amended Constitution and Bylaws of the San Carlos Apache Tribe, effective February 24, 1954.

e) **EMPLOYMENT STATUS**

i) A member of the San Carlos Apache Tribal Council who desires to run for the Office of Chairman or Vice-Chairman shall not be required to resign from Tribal Council Membership. If such person qualifies for the General Election ballot, he or she shall retain their Tribal Council position until the final results of the General Election. If such person has been elected to the Office of Chairman or Vice-Chairman, he or she shall vacate his or her Tribal Council

membership upon inauguration and a Special Election shall be held to fill the vacant Council Member's position.

- ii) Any eligible enrolled member who is a county, state or federal employee and who wishes to become a candidate for the Office of Chairman, Vice-Chairman or Tribal Council membership, upon nomination by Primary Election, must submit written proof of his or her resignation from employment to the General Election Board within seventy-two (72) hours of being notified of his or her nomination to the General Election. If not submitted by the deadline, he or she will not be eligible as a candidate in the General Election.

f) DISQUALIFICATION

The General Election Board shall review the qualifications of the candidates. If the General Election Board determines that a person is not qualified to be a candidate, the individual affected by the decision shall be immediately notified, in writing, by the General Election Board. Any candidate that has been disqualified by the General Election Board may appeal this decision pursuant to the Appeals procedures as set forth under Article VI(1) of this Ordinance.

2) CERTIFICATION OF CANDIDATES

The General Election Board shall certify candidates as nominees for the ballot of the General Election after the Primary Election and shall post the names with the general public within three (3) business days from the date of the Primary Election.

3) PRIMARY ELECTION

On the first Tuesday in October prior to the General Election, the Tribe shall hold a Primary Election if there are more than four (4) candidates for a particular office who qualify for the ballot. The General Election Board shall announce the names of the four (4) candidates from the results of the Primary Election who shall be eligible for the General Election ballot.

The four (4) candidates for the General Election ballot shall be the four (4) candidates receiving the most votes in the Primary Election. If there are fewer than four (4) candidates who qualify for the ballot for a particular office, there shall be no Primary Election for such office and all such candidates shall be on the General Election ballot.

**ARTICLE IV. GENERAL ELECTION BOARD
AND DISTRICT ELECTION BOARDS**

1) GENERAL ELECTION BOARD.

a) COMPOSITION

The General Election Board shall be appointed by a majority vote of a quorum of the Tribal Council. The General Election Board shall consist of five (5) members plus an alternate. The members shall represent each of the four (4) districts on the Reservation. The members shall be appointed for a period of five (5) years. Upon expiration of the term of a General Election Board Member, the Tribal Council shall appoint a member to serve for a period of five (5) years. The Chairman of the General Election Board shall be chosen by the General Election Board members.

b) REMOVAL

By a majority vote of a quorum of the Tribal Council, any member of the General Election Board may be removed for failing to uphold the duties of his or her position on the General Election Board.

c) INELIGIBILITY

No candidate for office is eligible for appointment to the General Election Board, and existing members of the General Election Board may not run for office without prior resignation from the General Election Board. No person shall be eligible for appointment to the General Election Board if he or she has been convicted of a felony, regardless of whether the person's felony conviction has been expunged or whether the person's civil liberties have been restored by any court. No person shall be eligible for appointment to the General Election Board if he or she has, within the twelve (12) month period immediately prior to the appointment, been convicted of a misdemeanor involving moral integrity as defined in Article II, Section 1 of the Amended Constitution and Bylaws of the San Carlos Apache Tribe, effective February 24, 1954.

d) COMPENSATION

The General Election Board shall be compensated at rates prescribed by the Tribal Council.

e) DUTIES

i) The General Election Board shall possess general supervisory powers over the four (4) District Election Boards. The General Election Board shall hear election contests and disputes. It shall have the duty of

ensuring that all of the relevant election dates and deadlines are met. It shall possess the powers necessary to conduct an orderly and fair election including establishing operating policies and procedures and appointing various election officials necessary to conduct an orderly election including but not limited to: Election Judge, Election Marshal, Election Roster Clerk, Election Poll List Clerk and Election Alternate.

ii) Each member of the General Election Board, including the alternate, shall take an oath to faithfully perform the duties imposed upon him or her by the United States and Tribal law. A Tribal Judge shall administer and certify the oath prior to the first Tuesday in August.

iii) It shall be the duty of the General Election Board to assist each District Election Board Judge in his or her duties. It may also assign specific tasks and maintain direct supervision over all election workers during the Tribal election process.

iv) The General Election Board shall assist each District Election Board in its duties, including maintaining order at the polling places and ensuring accuracy and compliance with election laws. The General Election Board shall provide to each District Election Board a list of those Voters who previously requested and received absentee ballots.

v) The General Election Board shall determine where an eligible Voter Physically Resides (including the district where a member may vote).

f) COORDINATION WITH THE SAN CARLOS APACHE TRIBAL ENROLLMENT DEPARTMENT

The General Election Board shall coordinate with the San Carlos Apache Tribal Enrollment Department on matters pertaining to Voter eligibility and residency pursuant to this Ordinance.

g) APPEALS

i) GENERAL ELECTION BOARD

Any enrolled member of the Tribe whose name has been removed or omitted from the list of eligible Voters may appeal in writing to the General Election Board pursuant to Article VI(2) of this Ordinance.

h) FINAL LIST OF ELIGIBLE VOTERS

A list of the eligible Voters for each district shall be prepared by the General Election Board. The list of eligible Voters shall be posted at designated places within the community in accordance with a timeline established by the General Election Board. The General Election Board may update and repost the list(s) of eligible Voters at designated places within the community as necessary.

2) DISTRICT ELECTION BOARD

a) OFFICES

The four (4) District Election Boards shall consist of seven (7) members including: (1) Two Marshals (who shall be certified officers); (2) One Judge; (3) One Roster Clerk; (4) One Signature Clerk; (5) One Poll Clerk; and (6) One Alternate. All members of the District Election Boards shall be appointed by the Tribal Council. Each member of the District Election Board shall serve a five (5) year term. Upon expiration of the term of a District Election Board Member, the Tribal Council shall appoint a member to serve for a period of five (5) years.

b) REMOVAL

By a majority vote of a quorum of the Tribal Council, any member of the District Election Board may be removed for failing to uphold the duties of his or her position on the District Election Board.

c) VACANCIES

A vacancy, regardless of the reason, shall be filled by a majority vote of the Tribal Council.

d) INELIGIBILITY

No candidate for office is eligible for appointment to the District Election Board, and existing members of the District Election Board may not run for office without prior resignation from the District Election Board. No person shall be eligible for appointment to the District Election Board if he or she has been convicted of a felony, regardless of whether the person's felony conviction has been expunged or whether the person's civil liberties have been restored by any court. No person shall be eligible for appointment to the District Election Board who has, within the twelve (12) month period immediately prior to the appointment, been convicted of a misdemeanor involving moral integrity as defined in Article II, Section 1 of the Amended Constitution and Bylaws of the San Carlos Apache Tribe, effective February 24, 1954.

e) COMPENSATION

Each member of the District Election Board shall be compensated at rates prescribed by the Tribal Council.

f) DUTIES OF MEMBER

Each member of the District Election Board, including alternates, shall take an oath to faithfully perform the duties imposed upon him or her by the United States and Tribal Law. The Tribal Judge shall administer and certify the oath no later than the first Tuesday in September.

ARTICLE V. CONDUCT OF ELECTION

1) ELECTION DATES AND DEADLINES

a) SECOND TUESDAY IN AUGUST

The Tribal Council shall:

- i) Post a general notice in all districts of the Reservation that the General Election is to be held on the first Tuesday in November.
- ii) Appoint the members of the General Election Board and each District Election Board. If such members have not been appointed by the first Tuesday in August or if any member resigns or is unable to serve, the Tribal Council shall endeavor to appoint such member(s) as soon as possible after the second Tuesday in August.

b) FIRST TUESDAY IN OCTOBER

In the event there are more than four (4) candidates that qualify for the ballot for a particular office, then a Primary Election shall be held on the first Tuesday in October.

c) FIRST TUESDAY IN NOVEMBER

The General Election is to be held on the first Tuesday in November.

2) POLLING PLACES

There shall be at least one polling place in each district named in Article IV of the Amended Constitution and Bylaws of the San Carlos Apache Tribe, effective February 24, 1954. The location of each polling place shall be designated by the General Election Board and posted in each district no less than thirty (30) days prior to each election.

3) HOURS OF VOTING

The polls shall be open at each polling place from 6:00 A.M. to 7:00 P.M. At 7:00 P.M., the Marshal shall designate the last person eligible to cast his or her vote. Any eligible Voter who, at the moment of closing, is in the line of waiting Voters shall be allowed to prepare and cast a ballot.

4) EARLY VOTING

The General Election Board shall provide for early voting two (2) weeks prior to any election during normal business hours at such location(s) so designated by the General Election Board.

5) VOTING MACHINE PROCEDURES

The General Election Board shall select the voting machine which shall be the method used by the Voter to cast his or her ballot.

6) WRITE IN CANDIDATES

- a) Write-in candidates shall only be allowed in a Primary Election. Write-in candidates shall be counted and Canvassed only if:
 - i) The write-in candidate has been identified in any of the following ways: two (2) initials and last name; first name, middle initial, and last name; first name, middle name, and last name; or first name and last name. Any misspelling of the above combinations that can be reasonably determined by a majority of the members of the District Election Board to declare a write-in candidate shall be counted by the District Election Board.
 - ii) The write-in candidate's name must be written in the proper slot of the ballot and an arrow pointing to the write-in candidate's name must be completed on the ballot for the write-in vote to be counted.
 - iii) A write-in candidate that is placed in the top four (4) voting in a primary is only eligible to run in the General Election if the write-in candidate meets the qualifications for eligibility of Tribal Council membership as stated in this Ordinance.

7) THREE HUNDRED FOOT LIMIT NOTICES

a) NOTICES

The General Election Board shall furnish, along with the ballots and the necessary election supplies, four (4) notices with letters not less than three (3) inches high: "No Campaigning". Before opening the polls, each District Election Board Marshal shall post the four (4) notices approximately three hundred (300) feet in different directions from the main outside entrance of the places in which the district election is being held.

b) LIMITATION OF CAMPAIGNERS

No person will be allowed to campaign within three hundred (300) feet of the main outside entrance of a polling place from 7:00 P.M. on the day prior to Election Day to 7:00 P.M. on Election Day. To “campaign” means to hold campaign rallies, display campaign posters, signs, or other campaign materials, distribute campaign materials, and/or solicit votes for or against any person or political party or position by any means.

c) EFFECT OF LIMITATION.

After a Voter has cast his or her ballot, he or she shall leave past the three hundred (300) feet limit from the polling place. Election officials are the only persons allowed to remain inside the three hundred (300) foot limit surrounding the main outside entrance of a polling place.

d) VIOLATIONS

Any person subject to the criminal jurisdiction of the San Carlos Apache Tribal Court who is found guilty of a violation of the limitation on the campaigning per Subsection b, above, shall be subject to the penalties named under Article VII.

8) ABSENTEE VOTERS

a) REQUEST FOR ABSENTEE BALLOT IN PRIMARY ELECTION

Eligible Voters who are temporarily absent or otherwise unable to cast their ballots at the polling place by reason of employment, schooling, military service, illness or physical disability may request absentee ballots. Requests shall be submitted in writing to the General Election Board in accordance with procedures and timelines established by the General Election Board. The General Election Board shall promptly rule upon the person’s eligibility to receive an absentee ballot, and notify the Voter of its ruling by mail. NOTE: Emergency cases will be handled by the General Election Board on a case-by-case basis. The decision of the General Election Board shall be FINAL and not subject to further appeal.

b) REQUEST FOR ABSENTEE BALLOT IN GENERAL ELECTION

Eligible Voters who are temporarily absent or otherwise unable to cast their ballots at the polling place by reason of employment, schooling, military service, illness or physical disability may request absentee ballots. Requests shall be submitted in writing to the General Election Board in accordance with procedures and timelines established by the General Election Board. The General Election Board shall promptly rule upon the person’s eligibility to receive an absentee ballot and notify the Voter of its ruling by mail. NOTE: Emergency cases will be

handled by the General Election Board on a case-by-case basis. The decision of the General Election Board shall be FINAL and not subject to further appeal.

c) SCHEDULE

Absentee ballots shall be mailed to eligible Voters in accordance with procedures and timelines established by the General Election Board. Ballots returned to the General Election Board through the mail shall be mailed to the General Election Board at the address indicated on the ballot. Absentee ballots received by the General Election Board on or before the date of the election shall be considered valid. Any absentee ballots received after the date of the election shall be considered invalid and will not be counted.

d) OFFICIAL CONDUCT

It shall not be grounds for an election contest that a person failed to vote by absentee ballot or otherwise due to error, negligence, or delay on the part of the election officials.

Where there is a pattern of error, negligence, or delay by the election officials which indicates willful misconduct and such misconduct would have affected the outcome of the election, such misconduct shall be grounds for an election contest.

e) ABSENTEE BALLOT COUNT AND ADMINISTRATION

The General Election Board shall ensure that only those absentee ballots mailed to the official address of the General Election Board (as provided in the absentee ballot information packet provided to members) and received no later than the date of the election shall be counted and considered valid. The General Election Board shall ensure that the administration and collection of absentee ballots are conducted in a fair, secure and orderly manner, including, but not limited to, the following:

- i) The General Election Board shall collect absentee ballots only on the date of the election and no earlier than 4:00 P.M. on the date of the election.
- ii) The General Election Board shall have at least two (2) members of the General Election Board physically present when the absentee ballots are collected from the designated P.O. Box of the General Election Board. Absentee ballots must remain in the designated P.O. Box of the General Election Board until 4:00 P.M. on the date of an election.
- iii) The General Election Board shall send all requested absentee ballots via certified mail/return receipt requested. If a member has previously requested an absentee ballot and attempts to vote in person at a polling place on the day of an election, the General Election Board must confirm, via certified mail

return receipt, that such member has, in fact, received the absentee ballot. If receipt of the absentee ballot is confirmed, the member shall not be entitled to vote at the polling place on the date of the election unless such Voter produces the actual absentee ballot mailed to him or her and returns it to the District Election Board. Under such circumstances, the District Election Board shall mark the returned absentee ballot as "SPOILED."

- iv) Absentee ballots shall not be tabulated until after the polling places have closed and after the Abstract and vote count from all polling places has been provided by each District Election Board to the General Election Board. At such time, the General Election Board, with at least a quorum present, shall tabulate all absentee ballots.
- v) The General Election Board shall keep detailed records of all matters pertaining to absentee ballots including, but not limited to, absentee ballot requests, copies of all certified letters mailed to eligible members, and lists of all members who have been mailed absentee ballots.

9) ABSENCE FROM TRIBAL EMPLOYMENT FOR THE PURPOSE OF VOTING

A person entitled to vote at a Tribal election held within the San Carlos Apache Reservation shall not be liable for any penalty nor deduction from salary or wages because of absence from Tribal employment while voting. Requests for voting leave shall be made prior to the date of the election, and the employer may specify the hours during which the employee may be absent.

10) GROUND FOR CHALLENGING VOTERS

A person offering to vote may be orally challenged by the election officials upon any of the following grounds:

- a) That he or she is not the person whose name appears on the list of eligible Voters.
- b) That he or she no longer resides in the district.
- c) That he or she has voted before at that election.

11) THE COUNT

As soon as the polls are closed and the last ballot has been deposited in the ballot box, each District Election Board shall immediately count the votes cast. After each District Election Board has counted all of the ballots, the District Election Board provides the results to the General Election Board.

12) WITNESS

The counting of the votes shall be open for public observation but the public must remain at a reasonable distance from the Marshals, Judge, Clerks, Alternate, and the ballot box. The public must remain quiet and in no way interfere with the orderly counting. If order cannot be kept, the Marshals shall hold the counting until such time as order has been restored.

13) THE ABSTRACT

At the end of the count, each District Election Board shall determine the total votes cast for each candidate. The lists of the Clerks and the Alternate must match in order to be certified. These results shall be generated by a voting machine and shall include the total votes cast for each candidate and the number of rejected and spoiled ballots. The Abstract shall be certified by each member of the District Election Board signing his or her name thereto. The Abstract and vote count shall be delivered to the General Election Board. The General Election Board shall tabulate all absentee ballots to determine the final Abstract and vote count.

14) METHOD OF CANVASS

The Tribal Council assembled in open meeting shall, within twenty-four (24) hours of the election, receive from the Chairman of the General Election Board the election results and the election results shall be read aloud to the public. Upon determining who has received the highest number of votes for each office or Council seat, the Tribal Council shall certify the election results as final.

15) INAUGURATION AND ADMINISTRATION OF OATH

Newly elected Council members shall take office on the first Tuesday in December after their election in accordance with Article IV, Section 6 of the Amended Constitution and Bylaws of the San Carlos Apache Tribe, effective February 24, 1954. The Tribal Council shall be responsible for the planning of any inauguration which shall include coordination with any elected candidate(s).

The Tribal Council shall select any sitting Judge to administer the Oath of Office to an elected official of the San Carlos Apache Tribal Council.

16) SPECIAL ELECTIONS

The General Election Board shall establish a date for a Special Election: (1) in the event that there is a tie in a General Election, (2) upon the death of an elected official, and (3) when other circumstances warrant. The General Election Board has the discretion to establish any further procedures/deadlines for a Special Election to ensure that the Special Election is conducted in a fair and orderly manner.

ARTICLE VI. APPEALS, RECOUNT AND CONTEST OF ELECTION

1) CANDIDATE APPEALS

- (i) Any eligible Voter may contest, in writing, the eligibility of a candidate who has submitted a Letter of Intent to run for office of the San Carlos Apache Tribe. Upon receipt of a written contest of a candidate's eligibility, the General Election Board shall provide the contested candidate with a copy of the written contest and shall ask for a written response. Upon receipt of such contest, the General Election Board, in its sole discretion, may: (1) render a decision based upon the documents/information provided in the appeal, or (2) schedule a hearing. The burden of proof is on the eligible Voter to demonstrate, by Clear and Convincing Evidence, that the candidate is not eligible to run for the office for which he or she has submitted a Letter of Intent form. The General Election Board reserves the right to establish any other procedures regarding the contest of a candidate's eligibility if the General Election Board finds that the establishment of such procedures are in the best interest of the San Carlos Apache Tribe.
- (ii) Within forty-eight (48) hours of receiving the General Election Board's decision, the eligible Voter may appeal the General Election Board's decision to the Tribal Court. A copy of such appeal must be provided to the General Election Board. The decision of the Tribal Court shall be made within seventy-two (72) hours of the appeal.
- (iii) Except as provided in Section 4(a)(v) of this Article, a contest of a candidate's residency may occur no later than fourteen (14) days prior to a Primary Election.

2) VOTER ELIGIBILITY APPEALS

- (i) Any enrolled member whose name has been removed or omitted from the list of eligible Voters may appeal, in writing, to the General Election Board. The written appeal must set forth the basis upon which the Voter believes he or she has been wrongfully removed or omitted from the list of eligible Voters. Upon receipt of such appeal, the General Election Board, in its sole discretion, may: (1) render a decision based upon the documents/information provided in the appeal, or (2) schedule a hearing. The General Election Board shall consider the matter and render a decision within five (5) business days of receiving such appeal. The burden of proof is on the Voter to demonstrate, by Clear and Convincing Evidence, that the Voter's removal or omission from the list of eligible voters was incorrect.
- (ii) Within forty-eight (48) hours of receiving the General Election Board's decision, a Voter may appeal the General Election Board's decision to the

Tribal Court. A copy of such appeal must be provided to the General Election Board. The decision of the Tribal Court shall be made within seventy-two (72) hours of the appeal.

3) RECOUNT AND REQUIREMENT

When the Canvass of returns for any election shows that the margin between two (2) candidates receiving the greatest number of votes for a particular office does not exceed one-percent (1%) of the number of votes cast for both such candidates, the General Election Board shall automatically recount the votes for such candidates.

4) CONTEST OF ELECTIONS

a) GROUNDS

Any eligible Voter may contest, in writing, the election of any person upon the following grounds:

- i) For willful misconduct on the part of the General Election Board or any member thereof in any district of the San Carlos Apache Reservation or on the part of any officer making or participating in a Canvass of returns for a Tribal election.
- ii) That the person whose right is contested or any person acting for him/her has given an eligible Voter, General Election Board Member, or District Election Board Member a bribe or reward for the purpose of procuring his or her election or has committed any other offense against the election franchise.
- iii) On account of illegal votes.
- iv) That by reason of erroneous count of votes the person elected did not, in fact, receive the highest number of votes for that office or position.
- v) That the candidate engaged in fraudulent behavior regarding establishing and maintaining the required residency requirements as set forth under this Ordinance.

b) SERIOUSNESS

Any eligible Voter alleging as ground for contest those listed in Paragraph (a) of this Section shall also allege and demonstrate that such violation, if proved, would change the outcome of the election.

5) STATEMENT OF CONTEST

The eligible Voter contesting a Tribal Election shall, within five (5) working days after completion of the Canvass of the election and declaration of the results thereof by the Tribal Council, file with the General Election Board a statement in writing setting forth:

- a) The name and residence of the person contesting the election and that he or she is an eligible Voter of the district in which he or she resides.
- b) The name of the person whose right to the office is contested.
- c) The office of the election which is contested.
- d) Particular grounds and specific facts of the contest.
- e) The statement shall be verified by the affidavit of the party contesting the election that he or she believes that matters and things therein contained are true.

6) TIME FOR HEARING THE ELECTION CONTEST; APPEAL

a) NOTIFICATION

In any contest under the provisions of this Ordinance, the General Election Board shall promptly notify the person charged with misconduct or whose election is being contested and set a time for the hearing of the contest not later than ten (10) working days after the date on which the statement of the contest was filed, during which period a response may be filed by such person. Upon a showing of good cause, this date may be continued for a period not to exceed five (5) working days.

b) PROCEDURE

The General Election Board shall convene to hear and determine all issues arising in an election contest. After hearing the allegations, proofs, and responses of the parties, the General Election Board shall, within five (5) working days after the hearing concludes, submit its findings of fact and declare judgment. Judgment is declared when the General Election Board places its decision in writing and returns its written decision to the parties involved in the election contest. Such judgment shall either confirm the election, or if the violation changed the results of the election, such judgment shall set the election aside.

c) APPEAL

The judgment of the General Election Board may be appealed to the Tribal Court within five (5) working days after the General Election Board declares judgment. The Court shall determine whether the grounds for contest have been proven and whether the violation has changed the outcome of the election. The decision of the Tribal Court shall be final.

d) SPECIAL ELECTION

A Special Election may be called if: (1) the Tribal Court determines that a violation has been committed, or (2) no appeal has been taken from the judgment of the General Election Board within five (5) working days after the General Election Board declares judgment.

A Special Election shall be held no later than thirty (30) days after notice is posted and will be conducted in the same manner as a General Election. Notice of the Special Election shall be posted by the Tribal Council or the Council's designee. The duties of the General Election Board and the District Election Boards shall be the same in a Special Election as in a Primary or General Election.

ARTICLE VII. PENALTY PROVISIONS

1) BRIBERY OF VOTERS

It is unlawful to give, accept, promise, offer, or solicit money or any other thing of value to any person for the purpose of influencing such person to vote for any particular candidate or to refrain from voting in any Tribal election, or to give, cause to be given, or promise to give money or any other thing of value to any person to be expended by such person for bribery in any Tribal election; provided, however, that it shall not be unlawful to provide transportation to the polls to any eligible Voter.

2) COERCION OF VOTERS

It is unlawful to threaten or use force, or to request another person to threaten or use force, to influence any person's vote or to prevent any person from voting in any Tribal election.

3) INTERFERENCE WITH OR CORRUPTION OF AN ELECTION OFFICIAL

It is unlawful for any person to give or offer to give a bribe to any election or Tribal official making or participating in a Canvass of returns for a Tribal election for the purpose of influencing such official in the discharge of his duties, or to influence or attempt to influence any of the said officers in the performance of their official duties by means of force, threat, or promise of any nature.

4) VIOLATION OF DUTY BY ELECTION OFFICERS

It is unlawful for any member of a General Election Board or other Tribal official participating in or making a Canvass of returns of an election to willfully fail to perform any duty in the manner prescribed in this Ordinance or to solicit or accept money or any other thing of value from any candidate or other person to influence the performance of his duties.

5) ILLEGAL VOTING

It is unlawful for a person who knows that he or she does not possess the qualifications of an eligible Voter to vote or attempt to vote in a Tribal election; for a person to vote more than once in a Tribal election; or for any person to vote in any district other than the one in which he or she resides.

6) INTERFERENCE WITH VOTERS OR ELECTION PROCEDURES

It is unlawful for a person to commit any of the following acts:

- a) Interfere with an eligible Voter within the three hundred (300) foot limit of the polling place as posted by the Marshal of the election;

- b) Endeavor, while within the three hundred (300) foot limit, to induce an eligible Voter to vote for or against a particular candidate or issue;
- c) Hinder the voting of others;
- d) Knowingly campaign within three hundred (300) feet of the main outside entrance of a polling place from 7:00 P.M. on the day prior to Election Day to 7:00 P.M. on Election Day. To "campaign" shall be defined per Article V, Section 7(b).

Notwithstanding the foregoing, nothing contained in this Section shall prohibit campaigning on the grounds of a private residence or establishment other than that in which the polling place is located.

7) ALCOHOL AND INTOXICATION

- a) No alcohol shall be allowed at the election polls on Election Day or around the election poll premises.
- b) No eligible Voter shall be allowed to vote while intoxicated and such an individual shall only be allowed to vote after he or she returns in a sober condition.
- c) The Marshal shall be required to remove any individual who is intoxicated from the election poll premises.

8) PENALTIES

Any person subject to the criminal jurisdiction of the San Carlos Apache Tribal Court who is found guilty of committing any of the violations under Article VII may be sentenced to imprisonment for a period not to exceed one hundred eighty (180) days, to pay a fine not to exceed five hundred dollars (\$500.00), or both.

9) DISQUALIFICATIONS

- (i) Eligible Voters or candidates for elected office may file a written complaint with the General Election Board that another person is violating any portion of Article VII (1)-(7) of this Ordinance. Upon receipt of a written complaint, the General Election Board shall provide the accused with a copy of the written complaint and shall ask for a written response. The General Election Board, in its sole discretion, may: (1) render a decision based upon the documents/ information provided in the appeal, or (2) schedule a hearing. The burden of proof is on the eligible Voter or candidate to demonstrate, by Clear and Convincing Evidence, that the accused has violated any portion of Article VII (1)-(7) of this Ordinance. The General Election Board reserves the right to establish any other procedures regarding a written complaint pursuant to this

Section if the General Election Board finds that the establishment of such procedures is in the best interest of the San Carlos Apache Tribe.

- (ii) Within forty-eight (48) hours of receiving the General Election Board's decision, the eligible Voter or candidate may appeal the General Election Board's decision to the Tribal Court. A copy of such appeal must be provided to the General Election Board. The decision of the Tribal Court shall be made within seventy-two (72) hours of the appeal.