TITLE 2 – GOVERNMENT ADMINISTRATION
PART VI – MISCELLANEOUS
CHAPTER 6-2 – ELECTIONS

TABLE OF CONTENTS

SUBCHAPTER A GENERAL PROVISIONS
Section 10 Preamble 1
Section 20 Authority 1
Section 30 Computation of Time 1
Section 40 Severability 1

SUBCHAPTER B VOTER ELIGIBILITY AND REGISTRATION
Section 50 Eligibility of Voters 1
Section 60 Registration 2

SUBCHAPTER C ELIGIBILITY OF CANDIDATES
Section 70 Eligibility of Candidates 2
Section 80 Qualifications of Candidates 2
Section 90 Conflict of Interest 2

SUBCHAPTER D GENERAL ELECTIONS FOR TRIBAL COUNCIL
Section 100 Election Dates .....
Section 110 Composition and Tenure of Elected Officials 3
Section 120 Declaration of Candidacy; Filing; Nominating Petitions; Notice 3
Section 130 Ballots; Officials; Sample 3
Section 140 Polling Places 4
Section 150 Polling Place; Supervision and Administration of Elections 4
Section 160 Provisional Ballots 4
Section 170 Voting Hours 4
Section 180 Voting for Tribal Council Members 4
Section 190 Grounds for Challenging Voter; Appeal 4
Section 200 Counting of votes 5
Section 210 Poll Watchers 5
Section 220 Recount 5
Section 230 Certification of election; Vote Required for Election 5
Section 240 Announcement of Results; Persons Elected to take Seat immediately 6
Section 250 Selection of Chairman and Vice-Chairman 6
Section 260 Oath of Office 6

SUBCHAPTER E ABSENTEE VOTING
Section 270 Voting Absentee; Qualifications; Request for Absentee Ballot 6
Section 280 Application Form for Absentee Ballot Request 7
Section 290 Response to Absentee Ballot Request 7
Section 300 Marking Ballot; Envelope 8
Section 310 Duty of Board of Election Supervisors upon Receipt of Envelope 8
Section 320 Casting Absentee Ballot 8
Section 330 Retention of Materials 9
Section 340 Absentee Voters May Not Vote in Person at Their Polling Place 9

SUBCHAPTER F EARLY VOTING
Section 350 Early Voting Process .....

DRAFT

SUBCHAPTER G SPECIAL ELECTIONS
Section 360 Process
Section 370 Preparation of Ballots 9
Section 380 Polls; Duties of Election Supervisors in Special elections 9
Section 390 Votes; Canvass; Recount Certification 9

SUBCHAPTER H CAMPAIGN EXPENDITURES; CONTRIBUTIONS
Section 400 Report Designating Financial Agent; Filing; Penalty 9
Section 410 Statement of Receipts and Expenses; Time of Filing; Preparing and Distributing of Forms 10
Section 420 Failure to File Statement of Receipts and Expenses; Penalty 10
Section 430 Report by Persons no Authorized to Expend Money for Expenses of Candidate's Campaign; Time of Filing; Form; Penalty for Failure or Refusal to File 10
Section 440 Limitation on Expenditures by or on Behalf of Candidates; Radio or Television Time 11
Section 450 Penalty for Exceeding Campaign Expenditure Limit 11
Section 460 Fraudulent Reports; Penalty 11
Section 470 Contributions by Corporations and Non-members of the Pascua Yaqui Tribe; Penalty 11

SUBCHAPTER I FILLING VACANCIES
Section 480 Resignation from Office 12
Section 490 Filling Vacancy in Office Due to Disqualification 11
Section 500 Vacancies 12

SUBCHAPTER J INITIATIVE AND REFERENDUM
Section 510 Referendum 13
Section 520 Initiative Petition 13
Section 530 Circulation of Petition and Signatures 13
Section 540 Signatures and Verification 13
Section 550 Procedure for Withdrawing Signatures 14
Section 560 Prohibition on Circulating of Petitions by Certain Persons 14
Section 570 Filing of Petition and Election 14
Section 580 Verification of Registered Voters 15
Section 590 Disposition of Petitions by Board 15
Section 600 Form of Ballot 15
Section 610 Proclamation 16

SUBCHAPTER K RECALL
Section 620 Officers Subject to Recall; Number of Petitioners 16
Section 630 Recall petition; Limitations; Subsequent Petition 16
Section 640 Application for Recall Petition 17
Section 650 Recall Petition; Contents; Submission for Verification; Non-Acceptance 17
Section 660 Form of Petition 17
Section 670 Signatures and Verifications 17
Section 680 Certification of Number of Signatures 18
Section 690 Notice to Officer; Statement of Defense 18
Section 700 Resignation of Officer 18
Section 710 Order for Special Recall Election 18
Section 720 Nomination Paper; Form; Filing 18
Section 730 Form and Contents of Ballot 19
Section 740 General Election Laws Applicable 19
Section 750 Election Results 19

SUBCHAPTER L ELECTION DISPUTES

DRAFT

Section 760 Contest of Tribal Election; Grounds 19
Section 770 Dispute Procedure 20
Section 780 Judicial Review 21
Section 790 Summons; Form; Answer 21
Section 800 Time for Hearing Contest; Continuance; Findings of the Court; Judgment 22
Section 810 Inspection of Ballots before Trial; Petition; Bond; Appointment of Inspectors 22
Section 820 Timeliness for Election Dispute Procedure 22

SUBCHAPTER M VIOLATIONS; REMEDIES; PENALTIES
Section 830 Bribery of Electors 23
Section 840 Coercion of Voters 23
Section 850 Intimidation of Pascua Yaqui Employees by Employers; Campaigning by Employees 23
Section 860 Interference with or Corruption of Election Officer 23
Section 870 Violations of Duty by Election Board 24
Section 880 Illegal Registration or Voting 24
Section 890 Penalties 24
Section 900 Prohibition on Signing Petition for Profit 24
Section 910 Unlawful Acts; violations; Penalty 25
Section 920 Coercion or Intimidation with Respect to Petitions 25
Section 930 Destroying, Suppressing or Filing False Initiative or Referendum Petition; Classification 25
Section 940 Prohibition on Circulating of Petitions by Certain Persons 25
Section 950 Prohibition on Signing Petition for Profit; Classification 25
Section 960 Coercion or Other Unlawful Acts; Classification 25

SUBCHAPTER N FORMS
Section 970 Forms 27

DRAFT

TITLE 2 – GOVERNMENT ADMINISTRATION
PART VI – MISCELLANEOUS
CHAPTER 6-2 – ELECTIONS

Legislative History: *Approved on February 25, 1988 interim draft tribal election laws by Resolution No. C0-1-88.*

Approved on May 5, 1988 tribal election laws by Resolution No. C0-7-88.

Approved on December 27, 1988 interim procedures for resolving election disputes by Resolution No. C12-67-88.

Enacted on November 16, 1989 an election ordinance by Resolution No. C11-62-89.

Amended on February 20, 1992 by Resolution No. C2-20-92.

Approved on February 26, 2000 amendment by Resolution No. C02-78-00.

Amended on March 25, 2004 by Resolution No. C03-36-04.

Approved on April 20, 2004 number & locations of election polling places by Resolution No. C04-61-04.

Amended and codified on December 15, 2004 by Resolution No. C12-223-04.

Amended on November 19, 2007 by Resolution No. C11-182-07 and Ordinance No.18-07

On March 12, 2008, the existing Title 2, Part VI, Chapter 6-2 was repealed by Resolution No. C03- 48-08 and Ordinance No. 07-08, adopting new Title 2, Part VI, Chapter 6-2.

SUBCHAPTER A GENERAL PROVISIONS

Section 10 Preamble (2 PYTC § 6-2-10)

(A) The Constitution of the Pascua Yaqui Tribe contains the basic principles and laws by which we are governed. It sets forth the powers and duties of our government and guarantees the rights of the people.

(B) The Pascua Yaqui people value highly and appreciate deeply the right and privilege to vote for the members of our Tribe in whose hands will rest the responsibilities of administering an effective and efficient tribal government.

(C) The tribal election regulations and procedures which follow, with necessary modifications that will be made from time to time, provide our people with an orderly and systematic manner to elect those whom we choose to govern us.

Section 20 Authority (2 PYTC § 6-2-20)

This title is enacted pursuant to Article IX, Sections 1 and 2 of the Constitution of the Pascua Yaqui Tribe.

Section 30 Computation of Time (2 PYTC § 6-2-30)

The following rules for computing time shall apply:

(A) In computing any period of time prescribed by or allowed by this Chapter, the day of the act or event from which the designated period of time begins to run shall not be included.

DRAFT

(B) The last day of the period shall be counted unless it is a Saturday, Sunday, or a tribal holiday.

(C) When the last day is a Saturday, Sunday, or tribal holiday, the deadline shall be the first work day following the day that is not counted.

(D) Where the time limit is less than seven (7) days, Saturdays, Sundays, and tribal holidays shall not be counted at all.

Section 40 Severability (2 PYTC § 6-2-40)

If any provision of Chapter 6-2, or application thereof, is held invalid, the remainder of this Chapter shall remain unaffected.

SUBCHAPTER B VOTER ELIGIBILTY AND REGISTRATION

Section 50 Eligibility of Voters (2 PYTC § 6-2-50)

All enrolled members of the Pascua Yaqui Tribe as defined in Article III, Section 1 of the Tribal Constitution, and who have reached the age of eighteen (18) years shall be eligible to vote in tribal elections.

Section 60 Registration (2 PYTC § 6-2-60)

(A) A list of eligible voters shall be kept in the Board of Election Supervisors' office. Such voter list shall be provided by the Tribal Enrollment Office, and certified by the Board of Election Supervisors.

(B) Any enrolled member of the Pascua Yaqui Tribe who is eighteen (18) years or older whose tribal membership is evidenced by enrollment in the records of the Tribal Enrollment Office and inclusion on the records/overall roster kept, maintained and supplied by the Tribal Enrollment Office shall be permitted to vote.

(C) All eligible voters are deemed registered voters until such time as the Election Board implements a registration process for voting.

(D) Subject to available funding and approval by the Pascua Yaqui Tribal Council, the registrar may issue to all registered voters, a card bearing the name of the voter, home address, polling place where the voter will be permitted to vote, and other pertinent information as may be required by the Board of Election Supervisors.

(E) The Tribal Enrollment Office shall prepare a master voter roster, which includes an alphabetically arranged list of all registered voters, for the Board of Election Supervisors. The Tribal Enrollment Office shall also prepare any precinct voting rosters for designated polling locations requested by the Board of Election Supervisors. A precinct voting roster is an alphabetically arranged list of all persons eligible to vote in each polling place. All rosters shall be certified by the Board of Election Supervisors.

SUBCHAPTER C ELIGIBILITY OF CANDIDATES

Section 70 Eligibility of Candidates (2 PYTC § 6-2-70)

DRAFT

The Board of Election Supervisors shall be the sole judge in determining eligibility of candidates for office. The Tribal Council shall have the authority to enact such laws as are necessary to regulate eligibility of candidates for office consistent with the Tribal Constitution and the Indian Civil Rights Act of 1968.

Section 80 Qualifications of Candidates (2 PYTC § 6-2-80)

Qualifications: Each candidate who desires to seek election to the Tribal Council shall meet the following:

(A) Be an enrolled member of the Pascua Yaqui Tribe as defined in Article III, Section 1 of the Constitution of the Pascua Yaqui Tribe;

(B) Be 25 years of age or more at the time of election or appointment;

(C) Not have been convicted in any court of a felony, or of any crime involving deceit, fraud or misappropriation of funds, unless in the event of a felony conviction, his or her voting rights have been legally restored, or unless the criminal conviction has been expunged.

(D) Not be a former or current Tribal elected official who is currently suspended from office, such person shall not be eligible to be a candidate for or elected to any elected office during the term of his or her suspension;

(E) Not be a former Tribal elected official who has been removed from office under Article X of the Pascua Yaqui Constitution within the past eight (8) years, such person is not eligible to run for, or be elected to any elected office until eight (8) years after the effective date of his or her removal from office.

(F) Submit to a background check and pay a fee determined by the Board of Elections, if required by the Board of Election Supervisors.

Section 90 Conflict of Interest (2 PYTC § 6-2-90)

No person shall serve as a member of the Tribal Council while holding any other elective office, or holding any policy making position with the Tribe, or while in the employ of the Tribe or any Tribal enterprise. Candidates elected who are employed by the Tribe must resign from such employment prior to taking the oath of office.

SUBCHAPTER D GENERAL ELECTIONS FOR TRIBAL COUNCIL

Section _100 Election Dates (2 PYTC § 6-2-100)

General elections for the purpose of choosing the members of the Pascua Yaqui Tribal Council shall be held on the first Monday of June, 1992 and on the same day every fourth year thereafter.

Section 110 Composition and Tenure of Elected Officials (2 PYTC § 6-2-110)

(A) The Tribal Council shall consist of eleven (11) members elected at large from the membership of the Pascua Yaqui Tribe. The council members elected to the Tribal Council shall serve for a term of four (4) years from the date of election as provided in Article V, Section 2 of the Tribal Constitution, except for vacancies that are filled in accordance with Article XI, Sections (1) (2) (3) of the Tribal Constitution.

(B) There shall be no limit on the number of times members of the Tribal Council may be re-elected.

DRAFT

(C) At each general election, all persons elected members of the Tribal Council shall be installed in office within three (3) days following their election and their predecessors' term of office shall expire upon their installation in office.

Section 120 Declaration of Candidacy; Filing; Nominating Petitions; Notice (2 PYTC § 6-2-120)

(A) A person meeting the qualifications set forth in this Chapter (the "Applicant") must file a declaration of candidacy with the Board of Election Supervisors on an approved form during regular business hours in the month of January in a general election year.

(B) The Board of Election Supervisors shall provide the Applicant with a copy of this Chapter and copies of nominating petitions. The Applicant must return nominating petitions containing not less than 50 signatures of qualified registered voters of the Tribe to the Board of Election Supervisors within 45 days of filing the declaration of candidacy. There shall be no limit on the number of petitions a qualified voter may sign.

(C) Upon verification of signatures, the Board of Election Supervisors shall notify the Applicant whether or not there are sufficient valid signatures on the nominating petitions to qualify the Applicant as a candidate in the election.

Legislative History: Amended February 26, 2000 to require candidates to declare their candidacy for Tribal Council Membership by the Second Monday in March in the Year 2000 by Resolution No. C02-78-00; Amended on March 25, 2004 Tribal Council candidate declaration time frames by Resolution No. C03-36-04l

Section 130 Ballots; Officials; Sample (2 PYTC § 6-2-130)

(A) The printing of the ballots shall take place as soon as possible after all candidates have been certified by the Board of Election Supervisors. Paper ballots upon which are printed the names of the candidates shall be used in the tribal elections. The upper portion of the ballots shall contain the names of the candidates for members of the Tribal Council and the lower portion of the ballot shall contain any initiative or referendum measure to be voted on. Names of candidates shall be listed in alphabetical order. Ballots shall be numbered consecutively and provided in consecutive numbered blocks to each polling place.

(B) An adequate supply of ballots plainly marked "SAMPLE BALLOTS" and printed on a paper of different color from that of the ballots prepared for voting purposes shall be distributed and shall be posted in public places in each of the five traditional Yaqui communities in order to acquaint voters with the ballot and with voting procedures.

Section 140 Polling Places (2 PYTC § 6-2-140)

By the month of April of each general election year, the Board of Election Supervisors shall recommend the number and location of election polling places to the Tribal Council for designation by the Tribal Council in the General Election.

Legislative History: On April 20, 2004 designated the number and location of election polling places for June 7, 2004 General Elections by Resolution No. C04-61-04.

Section 150 Election Day Polling Place; Supervision and Administration of Elections (2 PYTC § 6-2-150)

DRAFT

(A) At least one day before the date of the general election, the Chairman of the Board of Election Supervisors shall call in all chief poll judges for necessary instructions, swearing in, taking and disseminating ballots and ballot boxes to the polling places designated for that election.

(B) The election judges shall guard the polls, maintain order, and instruct voters in the techniques of balloting. The poll clerks shall enter each voter's name in the poll books and shall issue ballots.

(C) One of the poll judges for each polling place shall be designated by the Board of Election Supervisors as the chief poll judge for his/her polling place, and it shall be his/her duty and responsibility to keep custody of and account of all ballots and the ballot box, and the poll books. He/She shall supervise other judges (if any) in their polling place in guarding the polls, maintaining order, and instructing voters. The poll judge shall further have supervisory jurisdiction over the poll clerks.

(D) In the event that polling locations are assigned to the registered voters of the Pascua Yaqui Tribe pursuant to Section 50(D) hereof, all individuals voting must go to the polling place indicated on their registration card to vote unless any person who desiring to change the polling place where such person is assigned to vote, as noted on the registration card, notifies the Board of Election Supervisors at least 30 days prior to the date of the next election, otherwise he/she must vote at the polling place where such person is assigned to vote, as noted on the voter's registration card. In the absence of such registration cards being issued, any enrolled member of the Pascua Yaqui Tribe whose Tribal membership is evidenced by enrollment and inclusion in the records/overall roster of the Tribal Enrollment Office shall be permitted to vote by regular ballot upon confirmation of such person's identity and Pascua Yaqui Tribe enrollment status. Until such time that the Pascua Yaqui Tribe issues voter registration cards pursuant to Section 50(D) hereof, any eligible voter of the Pascua Yaqui Tribe shall be allowed to vote as provided in this section at any Board of Election Supervisors' designated election polling place/location and shall not be required to vote at the polling place at which such person was previously registered or voted, in any previous tribal election.

(E) The list of all eligible voters shall be prepared in accordance with Section 50 hereof, (the "Eligible Voters List"). A copy of the Eligible Voters List shall be located and available at each of the Board of Election Supervisor's designated polling places.

Section 160__ Provisional Ballots (2 PYTC § 6-2-160)

(A) A person shall be allowed to vote a provisional ballot if any of the following are met:

(1) A person claims to be an eligible voter and the person's name is not listed on the voting roster.
(2) A person is not at his/her designated polling location.
(3) A person has legally changed his/her name and has not updated this information with enrollment.
(4) The pollworkers do not have sufficient information to determine if the person is an eligible voter.
(5) A voter is challenged, and the challenge is upheld.
(6) A person requested an absentee ballot.

(B) The Board of Election Supervisors shall develop Provisional Ballot procedures consistent with this Chapter.

(C) Any person who meets the above listed qualifications shall be allowed to vote by way of provisional ballot. The ballot will be included in the count, tabulation and canvass of votes upon confirmation by the election judges of such person's enrollment status, the person's eligibility to vote, and a determination that the person has not already cast a ballot in the election.

DRAFT

Section 170 Voting Hours (2 PYTC § 6-2-170)

On each general election day voting shall begin at 7:00 a.m., and shall end at 7:00 p.m. Anyone standing in line at 7:00 p.m. shall be allowed to vote.

Section 180 Voting for Tribal Council Members (2 PYTC § 6-2-180)

Each registered voter shall be entitled to cast as many votes for candidates to the Pascua Yaqui Tribal Council as there are Tribal Council seats to be filled in the election; provided, however, that no voter may cast more than one vote for any one candidate.

Section 190 Grounds for Challenging Voter; Appeal (2 PYTC § 6-2-190)

(A) A person attempting to vote may be orally challenged by any qualified voter of the Tribe upon any of the following grounds:

(1) That he is not the person whose name appears on the register.

(2) That he is voting at a polling place different than that designated on his registration card.

(3) That he has voted before in that election.

(4) That he is otherwise not a qualified voter.

(B) A challenge can only be made prior to the casting of a ballot by the person being challenged.

(C) Any person whose eligibility to vote is challenged may appeal to the poll judge and if still denied, may appeal to the Board of Election Supervisors.

(D) If, after the examination of the challenge, a majority of the Election Board is satisfied that the challenge is not valid, the person challenged shall be permitted to vote, otherwise not, and the ballot, if he has received one, shall without examination be at once destroyed in his presence.

(E) If the person challenged refuses to be sworn or affirmed, or refuses to answer questions material to the challenge, he shall not be allowed to vote.

(F) List of challenges, grounds and rulings: The Election Board shall require one of the clerks to keep a list of the names of all persons challenged, the grounds of the challenge and the determination of the Board upon the challenge. Affidavits of challenged voters, decisions of election officials and challenge lists shall be a part of the official returns and shall be delivered to the Tribal Council with the canvass and certification of election results.

Section 200 Counting of Votes (2 PYTC § 6-2-200)

At the close of the election, the chief election judges at each polling place shall seal and lock the ballots, poll books and keys in the ballot boxes, and tribal police shall transport such sealed and locked ballots boxes to the area designated by the Board of Election Supervisors for the purpose of counting, tabulating, and canvassing the results of the balloting in the presence of the Board of Election Supervisors.

Section 210 Poll Watchers (2 PYTC § 6-2-210)

Every candidate whose name appears on the ballot in the election may designate to the Board, in writing, prior to the election, one poll watcher to be present at all times during the balloting and during the counting

DRAFT

of the votes for each polling place. Poll watchers can be designated for early voting, general elections, and special elections. A candidate may also designate one poll watcher to be present for the counting and tabulating of ballots.

Section 220 Recount (2 PYTC § 6-2-220)

No recounting of the ballots of any polling place shall be made unless a candidate whose name appeared on the ballot at any such polling place objects, by 4:30 p.m. of the day after the election and pays to Finance Director or Treasurer of the Pascua Yaqui Tribe the sum of $50.00 for each polling place he or she wished to recount; provided, however, that the Board of Election Supervisors may, on its own initiative, conduct a recount of any polling place in which the Board believes that there may have been substantial irregularity in the voting or counting of the ballots. The Board may direct the chief poll judge to assist in canvassing and recounting ballots.

Section 230 Certification of Election; Vote Required for Election (2 PYTC § 6-2-230)

Not later than 5:00 p.m. of the third (3) day following the general or special election, the Board of Election Supervisors shall certify to the Chairman of the Tribal Council the names of all candidates elected to office in such election. All candidates for members of the Tribal Council elected to office shall be chosen on the basis of a vote.

Section 240 Announcement of Results; Persons Elected to Take Seat Immediately (2 PYTC § 6-2-240)

The Chairman of the Tribal Council shall, by 5:00 p.m. of the fourth (4) day following the general or special election, announce to the Tribal Council the results of the election, as certified to him by the Board of Election Supervisors. The person announced to the Council as elected shall be entitled to be sworn in and take his or her seat in the Council within three (3) days thereafter, but shall not be eligible to take office until the statement required by Section 410 of this Chapter is filed.

Section 250 Selection of Chairman and Vice-Chairman (2 PYTC § 6-2-250)

(A) Within 30 days of the date of the election of Tribal Council members, a Chairman and Vice-Chairman shall be chosen from among the Tribal Council members by vote of the members of the Tribal Council. The Tribal Council member receiving the most Tribal Council votes shall serve as Chairman, and the Tribal Council member receiving the second most Tribal Council votes shall serve as Vice-Chairman. In the event of a tie, a run-off election shall be held, with all Tribal Council members voting except the two candidates. The candidate receiving a majority of the remaining nine votes shall serve as Chairman and the other candidate as Vice-Chairman.

(B) The Chairman and Vice-Chairman shall serve in that capacity for a term of four (4) years; provided, however that the Tribal Council may select a different Chairman or Vice-Chairman at any time but only upon a vote of no confidence of at least two-thirds of the Tribal Council. The no confidence vote by the Tribal Council is solely for the purpose of removal of such Tribal Council member in his or her capacity as Chairman or Vice-Chairman. Nor is the two-thirds vote required in this election related to the complete removal of a Tribal Council member as contemplated in Article X, Sections (1)(2) and (3) of the Tribal Constitution. A Chairman or Vice-Chairman removed from his or her post shall continue to serve as a member of the Tribal Council.

Section 260 Oath of Office (2 PYTC § 6-2-260)

Each person elected to tribal office shall take the following oath of office prior to assuming the duties thereof:

DRAFT

I, _____ do solemnly swear that I will support and defend the Constitution and laws of the United States, that I will support and carry out, insofar as is within my power, the Constitution of the Pascua Yaqui Tribe and the chapters adopted pursuant thereto, and that I will faithfully and impartially discharge the duties of my office in the best interest of the Pascua Yaqui Tribe.

SUBCHAPTER E ABSENTEE VOTING

Section 270 Voting Absentee; Qualifications; Request for Absentee Ballot (2 PYTC § 6-2-270)

(A) Any registered voter of the Pascua Yaqui Tribe who meets the criteria established by this section shall be permitted to vote absentee at any general or special election.

(B) A person shall be permitted to vote absentee for any one of the following reasons:

(1) The voter expects to be absent from his polling place at the time of holding the election.

(2) The voter is physically unable to go to the polls.

(3) The voter is 55 years of age or older.

(4) The voter's place of residence is more than fifteen (15) road miles from his polling place.

(5) The voter cannot go to the polls on the day of the election because of the tenets of his religion.

(6) The voter has no vision or acuity.

(C) Any registered voter who expects to be physically unable to go to the polls on such a day may apply for an absentee ballot, either by coming in person to the office of the Board of Election Supervisors at Pascua Pueblo, Tucson, Arizona, or by requesting an absentee ballot request form from the Board of Election Supervisors.

(D) The eligible voter must complete an absentee ballot request form prepared by the Board of Election Supervisors prior to being issued an absentee ballot.

(E) A person requesting an absentee ballot shall identify himself or herself using the name under which he or she is enrolled.

Section 280 Application Form for Absentee Ballot Request (2 PYTC § 6-2-280)

(A) The form of application for an absentee ballot request shall be provided by the Board of Election Supervisors and substantially comply with Section 970 - Form "A".

(B) The applicant for an absentee ballot shall fill out and sign the application for an absentee ballot.

(C) Application for an absentee voter's ballot must be filed either in person or by mail not more than thirty (30) days or less than ten (10) days before the election date, with the Office of the Board of Election Supervisors in Pascua Pueblo, Tucson, Arizona.

Section 290 Response to Absentee Ballot Request (2 PYTC § 6-2-290)

Upon receipt from any registered voter of an application for Absentee Ballot Request, the Board of Election Supervisors shall immediately cause the following papers to be delivered to applicant:

DRAFT

(A) A ballot for the proposed absentee voter's polling place; and

(B) A white affidavit envelope labeled "For Absentee Ballot Only" for the ballot to be put in after the voter has marked it.

(C) A brown envelope with the address of the Board of Election Supervisors printed on its front in which the completed official application and the white envelope containing the ballot shall be placed and mailed or taken back to the Office of the Board of Supervisors in Pascua Pueblo, Tucson, Arizona.

(D) Printed instructions to absentee voters substantially as follows:

(1) Sign the affidavit envelope.

(2) Mark your ballot, and seal it in the white envelope marked "For Absentee Ballot Only". Do not enclose the application with the ballot.

(3) Sign the oath on the back of the white affidavit envelope marked "For Absentee Ballot Only".

(4) Place the white envelope containing your ballot, in the enclosed self addressed brown envelope. Check to see that the application is not enclosed in the envelope marked "For Absentee Ballot Only", and mail. The ballot must be in the office of the Board of Election Supervisors or returned to a designated polling location before 7:00 p.m. on Election Day.

Section 300 Marking Ballot; Envelope (2 PYTC § 6-2-300)

(A) The registered voter shall mark the absentee ballot, shall fold it up and seal it in the white envelope. The voter shall then enclose the sealed envelope containing the ballot in the larger brown envelope and complete the ballot affidavit

(B) Ballot Affidavit; Form:

(1) The absentee ballot shall be accompanied by an envelope bearing upon the front a printed affidavit in substantially the following form: *See* Section 970 - Form "B"

(C) The absentee ballot must be received by the Board of Election Supervisors at Pascua Pueblo, Tucson, Arizona, or brought to one of the polling locations on Election Day before 7:00 p.m.

(D) No absentee ballot received by the Board of Election Supervisors after 7:00 p.m. on Election Day shall be counted.

Section 310 Duty of Board of Election Supervisors upon Receipt of Envelope (2 PYTC § 6-2-310)

(A) Upon receipt of the envelope containing the absentee ballot, the Board of Election Supervisors shall compare the signatures thereon with the signatures of the elector on his ballot application, or enrollment application. If satisfied that the signatures correspond and that the application and the affidavit are sufficient, the Board of Election Supervisors shall hold them unopened in accordance with the rules and regulations of the Board of Election Supervisors.

Section 320 Casting Absentee Ballot (2 PYTC § 6-2-320)

DRAFT

(A) The Board of Election Supervisors shall, as approved by this section, review separately each absentee ballot received prior to the deadline for casting absentee ballots. If the Board then finds that the applicant is a duly registered voter of the Tribe, the vote shall be allowed. If the application or the affidavit is insufficient, or if the applicant is not registered to vote, the vote shall not be allowed.

(B) If the vote is allowed, the Board shall open the envelope containing the ballot in such a manner that the affidavit thereon is not destroyed, take out the ballot without unfolding or permitting it to be opened or examined, endorse the stub in the same manner that the other ballots are endorsed, deposit the ballot and the envelope in which it was enclosed in the ballot box, and show by the records of the election that the voter has voted.

(C) If the vote is not allowed, the affidavit envelope containing the absentee ballot shall not be opened and the Board shall mark across the face of such envelope the grounds for rejecting the ballot. The affidavit envelope with its contents shall then be deposited with the open affidavit envelopes and shall be preserved with official returns.

Section 330 Retention of Materials (2 PYTC § 6-2-330)

All material used for procuring and casting an absentee ballot shall remain under the control of the Board of Election Supervisors for a period of one year after the day of the election.

Section 340 Absentee Voters May Not Vote in Person at Their Polling Place (2 PYTC § 6-2-340)

The Board of Election Supervisors shall not include the name of any person who has voted by absentee ballot on the list of eligible voters sent to such voter's polling place, and any person who has voted by absentee ballot shall not be permitted to vote in person in the election for which he has cast an absentee ballot.

The Board of Election Supervisors shall not include the name of any person who has voted by absentee ballot on the list of eligible voters sent to such voter's polling place. Any person who has requested an absentee ballot shall not be permitted to vote a regular ballot. If the voter has not returned his or her absentee ballot, the voter can request a provisional ballot.

SUBCHAPTER F EARLY VOTING

Section 350 Early Voting Process (2 PYTC § 6-2-350)

(A)____ Early voting is defined as "casting a ballot prior to election day at such location designated by the Board of Election Supervisors and depositing the voted ballot in the ballot box located at such location.

(B) The Board of Elections Supervisors may conduct early voting. If early voting is conducted, it shall be conducted in the same manner and procedures set forth in Sections 150-190.

(C) Early voting shall be conducted on such dates, times, and locations as designated by the Board of Election Supervisors no more than thirty (30) days prior to election.

(D) The Board of Election Supervisors shall not include the name of any person who has voted by early ballot on the list of eligible voters sent to such voter's polling place. Any person who has voted an early ballot shall not be permitted to vote in person at the election for which he has cast an early ballot.

DRAFT

SUBCHAPTER G Special Elections

Section 360 Process (2 PYTC § 6-2-360)

The Board of Election Supervisors shall develop a timeline for a special election for the Tribal Council's review. If the special election is held as a result of a vacancy, the Board of Election Supervisors will develop shortened time periods for candidate filing and absentee ballot requests. If the special election is held as a result of an initiative, referendum petition, or referendum referral by the Tribal Council, the Board of Election Supervisors will make a recommendation to Tribal Council as to whether absentee balloting should be available and determine the time periods for any such absentee ballot requests.

Section 370 Preparation of Ballots (2 PYTC § 6-2-370)

The Board of Election Supervisors shall cause paper ballots to be prepared for use in each special election in a similar manner to that provided in Section 130. Sample ballots need to be prepared.

Section 380 Polls; Duties of Election Supervisors in Special Elections (2 PYTC § 6-2-380)

The Board of Election Supervisors shall recommend polling places for designation by the Tribal Council. Polling places shall remain open for special elections during the same hours as on general election days, and the Board of Election Supervisors shall perform the same duties performed in connection with general elections.

Section 390 Votes; Canvass; Recount Certification (2 PYTC § 6-2-390)

(A) The Board of Election Supervisors shall have the same power of supervision over special elections as it has over general elections, and shall canvass, and if necessary, conduct a recount. The votes cast in special elections shall be canvassed in the same manner applicable to general elections as provided in Section 200.

(B) Following its canvass of the votes in any special election, the Board of Election Supervisors shall certify the results to the Chairman of the Tribal Council.

SUBCHAPTER H CAMPAIGN EXPENDITURES; CONTRIBUTIONS

Section 400 Report Designating Financial Agent; Filing; Penalty (2 PYTC § 6-2-400)

(A) Before any tribal election, general or special, each candidate shall file with the Board of Election Supervisors, on a form to be provided by the Board, a report containing the names and addresses of every person, and whether said person is a member or non-member of the Pascua Yaqui Tribe, by or through whom such candidate has expended or proposes to expend money in defraying the expenses of his campaign, he has not authorized and will not authorize any person to so act for him, but that he will in person account for all money or other things of value expended in the interest of his candidacy.

(B) The candidate must file such a report within 45 days of the election and will be allowed to amend this report any time prior to the opening of the polls on the day set for the election.

(C) Should any candidate willfully fail to file a report required by this section, he is guilty of a Class 3 Misdemeanor.

Section 410 Statement of Receipts and Expenses; Time of Filing; Preparing and Distribution of Forms (2 PYTC § 6-2-410)

DRAFT

(A) Every candidate whose name appears upon the official ballot in any Pascua Yaqui tribal election, either general or special, shall, not more than 30 days after said election, file an itemized statement of receipts and expenses, signed by himself or herself, with the Board of Election Supervisors. The statement of expenses shall be examined by the Board of Election Supervisors, and they shall give the candidate an opportunity to correct any deficiency or error in it. Thereafter the report shall be filed in the tribal records office and shall be preserved in said office for at least five years, during which time it shall be a public record and shall be subject to inspection and copying.

(B) The statement of receipts and expenses shall set forth in detail a complete record of the candidate's receipts and expenditures in money or other things of value and the cost thereof, including promises to pay, treats, presents and favors, either present or future, intended for the purpose of aiding or which could have had a tendency to aid his success in such election, and shall include a like statement for each of the persons named by the candidate in any report filed under Section 400 of this Subchapter, and for any person not so named whom the candidate knows to have made any receipt or expenditure on behalf of his candidacy.

(C) The statement of expenses shall be made upon forms prepared by the Board of Election Supervisors. The Board of Election Supervisors shall give personally or mail a reasonable number of such forms to each candidate.

Section 420 Failure to File Statement of Receipts and Expenses; Penalty (2 PYTC § 6-2-420)

(A) The candidates receiving the highest number of votes in any tribal election to be elected as members of the Tribal Council shall not receive a certificate of election, and shall not be eligible to take office until the statement required by Section 410 of this Subchapter is filed.

(B) A candidate in any tribal election for members to the Tribal Council who failed to receive enough votes for election and who refuses or fails to file the statement required by Section 410 is guilty of a Class 3 Misdemeanor.

Section 430 Report by Persons not authorized to Expend Money for Expenses of Candidate's Campaign; Time of Filing; Form; Penalty for Failure or Refusal to File (2 PYTC § 6-2-430)

(A) If any person not named in the candidate's report required by Section 400(A) collects or expends any money or thing of value in connection with the candidacy of such candidate in any Pascua Yaqui election, such person shall within 30 days after such election file with the Board of Election Supervisors a full and complete report showing all money or other things of value collected and expended by him.

(B) The form of the report shall be prepared by the Board of Election Supervisors and shall be similar in form to that required of candidates.

(C) Any person who fails or refuses to sign or to file any report required by this section is guilty of a Class 3 Misdemeanor. If such person is not subject to the criminal jurisdiction of the Pascua Yaqui Courts, he may be subject to a civil action for damages of not less than $25.00 or more than $500.00, and/or expelled from land under the jurisdiction of the Pascua Yaqui Tribe.

Section 440 Limitation on Expenditures by or on Behalf of Candidates; Radio or Television Time (2 PYTC § 6-2-440)

(A) The maximum amount which may be expended by or on behalf of any candidate in any tribal election is set at $2,500.00. When anything of value other than money is expended or used by or on behalf of any candidate, it shall be considered as equivalent to money at its fair cash value.

DRAFT

Necessary personal travel or subsistence expenses of any candidate himself shall not be included in this limitation and need not be reported.

(B) Where radio or television time is donated or offered on an equal basis to all qualified candidates for tribal office, the value of such time shall not be included in the above limitation on expenditures, but shall nevertheless be reported by or on behalf of each candidate receiving the same, without assigning any cash value thereto.

Section 450 Penalty for Exceeding Campaign Expenditure Limit (2 PYTC § 6-2-450)

Any candidate who expends more money or other things of value than is permitted by section 440, either in person or through agents, or who knowingly permits any other person to expend a sum which when added to the sum expended by such candidate and his agents exceeds said limits, and found guilty of violation shall be guilty of committing a Class 1 Misdemeanor.

Section 460 Fraudulent Reports; Penalty (2 PYTC § 6-2-460)

A candidate who makes any statement or report required by this Chapter and therein knowingly misstates the amount of money given or expended, or fails knowingly to fully disclose the facts as to any gift, promise, treat, reward, favor, or any valuable thing given or expended, is guilty of a Class 1 Misdemeanor; and if such person received enough votes to have been elected to the Tribal Council in such election, he shall not hold the office.

Section 470 Contributions by Corporations and Non-members of the Pascua Yaqui Tribe; Penalty (2 PYTC § 6-2-470)

(A) It is the intent of this section to prohibit contributions being made for the purpose of influencing a Pascua Yaqui election from any source other than members of the Pascua Yaqui Tribe.

(B) It is unlawful for any corporation or non-member not married to an enrolled member of the Tribe to make any contribution of money or anything of value for the purpose of influencing a tribal election; provided, however, that it shall not be unlawful for a radio or television station to make free time available to any candidate for tribal office; provided further that equal time is made available to all other candidates for the same office.

(C) Any member of the Pascua Yaqui Tribe, any non-member, or any non- member of the Tribe married to a member of the Tribe, acting on behalf of a Corporation or a non-member not married to a member of the Tribe, who makes any contribution of money or anything of value for the purpose of influencing a tribal election, shall be guilty of a Class 1 Misdemeanor. If such person is not subject to the criminal jurisdiction of the Pascua Yaqui Courts, he may be subject to a civil action for damages of not less than $25.00 or more than $500.00 and/or expelled from land under the jurisdiction of the Pascua Yaqui Tribe.

(D) Any corporation or non-member of the Pascua Yaqui Tribe violating this section shall be ordered to show cause before the Tribal Council why it or he should not be barred from receiving any lease, right-of-way, contract, franchise, or concession of any character whatsoever thereafter from the Pascua Yaqui Tribe. If, upon hearing of such order to show cause, it appears to the Tribal Council that the said corporation or person is guilty of violating this section, said corporation or person shall be barred for a period of not less than one year nor more than five years from receiving any lease, right-of-way, contract, franchise or concession of any character whatsoever from the Pascua Yaqui Tribe.

SUBCHAPTER I FILLING VACANCIES

DRAFT

Section 480 Resignation from Office (2 PYTC § 6-2-480)

Upon the death or resignation of an elected or appointed tribal officer, his seat shall automatically be declared vacant.

Section 490 Filling Vacancy in Office Due to Disqualification (2 PYTC § 6-2-490)

Where any person who has received a sufficient number of votes to be elected to the Pascua Yaqui Tribal Council is disqualified from holding said office by Sections 420 or 460 within six (6) months of the election, then the candidate with next highest number of votes in the recent election shall take office. The disqualified person will be treated as if the person was not elected.

Section 500 Vacancies (2 PYTC § 6-2-500)

(A) All vacancies which occur on the Pascua Yaqui Tribal Council, the office of Chairman or Vice-Chairman, or with the judiciary as a result of recall, removal, death or resignation shall be filled within 45 days in accordance with this Subchapter.

(B) In the event of a vacancy for any cause in the office of the Chairman, the Vice-Chairman shall assume the duties of the Chairman for the remainder of the unexpired term, or until a successor has been chosen by the Tribal Council. In the event of a vacancy in the office of Vice-Chairman, a successor shall be chosen by majority vote of the Tribal Council from among those members then sitting on the Council.

(C) In the event of a vacancy in the Tribal Council, that office shall be filled by special election; provided, however, that should the vacancy occur within six months of the next election, the council shall have the discretion to decline to hold a special election and to leave the office vacant. If more than six months remain in the unexpired term, a special election shall be held within 45 days of the date upon which the vacancy occurs. The candidate elected in such special election shall serve only for the remainder of the expired term.

SUBCHAPTER J INITIATIVE AND REFERENDUM

Section 510 Referendum (2 PYTC § 6-2-510)

(A) Tribal Council Referral:

a. The Tribal Council has the right to propose amendments to the Pascua Yaqui Constitution to be voted on at a general or special election.

b. Proposed constitutional amendments referred by resolution from the Tribal Council to the Election Board must be approved by a 2/3 vote of the Tribal Council.

(B) Referendum Petition:

a. The people have the right to petition for an amendment to the Constitution of the Pascua Yaqui Tribe.

b. A matter proposed by referendum petition shall be submitted directly to the voters, and shall substantially comply with Section 970 - Form "F."

Section 520 Initiative Petition (2 PYTC § 6-2-520)

DRAFT

The people have the right to petition for a law. A matter proposed by initiative shall be submitted directly to the voters, and shall substantially comply with Section 970 - Form "G."

Section 530 Circulation of Petitions and Signatures (2 PYTC § 6-2-530)

(A) A person or organization intending to propose a law by initiative petition or to file a referendum petition for constitutional amendment or against a measure, item, section or part of a measure shall, before causing the petition to be printed and circulated, file with the Board of Election Supervisors an application, on a form to be provided by the Board, setting forth his or her name, or, if an organization, its name, and the names and titles of its officers, address, his intention to circulate and file a petition, and the text of the proposed law, constitutional amendment or measure to be initiated or referred, and applying for issuance of an official number to be printed in the lower right hand corner of both sides of the signature sheets of the petition.

(B) On receipt of the application, the Board shall forthwith assign a number to the petition, which number shall appear on the face of each copy thereof, and issue that number to the applicant. Numbers shall be assigned to petitions by the Board in numerical sequence and in the order of filing applications, and a record shall be maintained in the Board's Office of each application received and of the number assigned and issued to the applicant.

(C) The Board shall print and shall furnish to each applicant, at the time it issues the number, a copy of the text of this Chapter governing initiative and referendum.

Section 540 Signatures and Verification (2 PYTC § 6-2-540)

(A) Every qualified voter signing a petition shall do so in the presence of the person circulating the petition and who is to execute the affidavit verification. At the time of signing, the qualified voter shall sign his first and last names in the spaces provided and the voter so signing or the person circulating the petition shall print his first and last names and write, in the appropriate spaces following the signature, the signer's residence address, giving street and number, if any, and his post office address. The voter so signing or the person circulating the petition shall write, in the appropriate spaces following the voter's address, the voter's tribal enrollment number, and the date on which the voter signed the petition.

(B) The person before whom the signatures and addresses were written on the signature sheet shall on the affidavit form pursuant to this section, subscribe and swear before a notary public, that each of the names on the sheet was signed and the name and address was printed in the presence of the voter and the circulator on the date indicated, and that in his belief each signer was a qualified voter of the Tribe. All signatures or petitioners on a signature sheet shall be those of qualified voters who are registered to vote in the Tribe. The absence of a printed name shall invalidate that signature. Signature and handwriting comparisons may be made.

(C) The affidavit shall be in the following form printed on the reverse side of each signature sheet: *See* Section 970 - Form "H".

Section 550 Procedure for Withdrawing Signatures (2 PYTC § 6-2-550)

(A) A qualified voter who has signed an initiative or referendum petition may, by executing and filing with the Board an affidavit in the form prescribed by this section within ten (10) days from the day, on which the petition is filed with the Board, withdraw his signature from the petition. Any signature so withdrawn shall not be counted in determining the legal sufficiency of the petition. The affidavit shall:

DRAFT

(1) Be signed and sworn to before a notary public.

(2) Be in the given name and surname of the affiant.

(3) State the affiant's residence address, giving street and number, if any, his post office address, tribal enrollment number, and the serial number of the petition which he signed.

(4) Affirm the affiant's intention to withdraw his signature from the petition.

(B) The affidavit shall be in the following form: *See* Section 970 - Form "I".

Section 560 Prohibition on Circulating of Petitions by Certain Persons (2 PYTC § 6-2-560)

No member of the Board of Election Supervisors shall circulate an initiative or referendum petition and all signatures verified by any such person shall be void and shall not be counted in determining the legal sufficiency of the petition.

Section 570 Filing of Petition and Election (2 PYTC § 6-2-570)

(A) Every sheet for signatures shall:

(1) Be in the form prescribed by law.

(2) Have printed in its lower right hand corner, on each side of such sheet, the number assigned to the petition by the Board of Election Supervisors.

(3) Be attached to a full and correct copy of the title and text of the measure, or amendment to the Constitution, proposed or referred by the petition.

(B) Petitions may be filed with the Board of Election Supervisors in numbered sections for convenience in handling. Not more than fifteen signatures on one sheet shall be counted. When the petition is offered for filing, the Election Board, in the presence of the person offering them for filing, shall:

(1) Detach the sheets containing the signatures and affidavits.

(2) Check to determine that each signature sheet bears the number assigned by him to the petition, and shall count the signatures on only those sheets bearing such number.

(3) Cause all signature sheets to be grouped together and attach them to one or more printed copies of the measure proposed or referred.

(4) Number in the lower right hand corner both sides of the signature sheets in consecutive order. The same number shall appear on both sides of the sheet.

(C) In no event shall the Board of Election Supervisors accept an initiative or referendum petition which was issued for circulation more than six months prior to the election at which the measure is to be included on the ballot or more than six months after the application for circulating a petition is filed.

Section 580 Verification of Registered Voters (2 PYTC § 6-2-580)

(A) The Board of Election Supervisors may verify the signatures and claims of persons signing the petition who claim to be registered and qualified tribal voters. If an investigation finds that

DRAFT

persons signing the Petition are not eligible tribal voters as of the date of signing the Petition, the Board shall certify:

(1) The names, as well as the actual number, of persons selected by the Board for verification found not to be eligible voters as of the date of signing the petition.

(2) Whether the person whose signature appears in execution of each affidavit of circulator was an eligible voter at the time of circulating the petition.

(B) The Board of Election Supervisors shall have sixty (60) days to verify the signatures on an initiative or referendum petition.

(C) The Board's certification shall be in substantially the following form: *See* Section 970 - Form "J".

Section 590 Disposition of Petitions by Board (2 PYTC § 6-2-590)

(A) After its verification process is complete the Board of Election Supervisors shall issue a receipt to the person or organization that submitted the petition. *See* Section 970 - Form "K".

The Board shall then forthwith notify the Tribal Council Chairman that a sufficient number of signatures have been filed and that the initiative or referendum shall be placed on the ballot in the manner provided by law.

(B) If the number of valid signatures on the Petition sheets, after subtracting ineligible names, fails to equal or exceed the minimum required by the Constitution, the Board of Election Supervisors shall immediately return the original signature sheets to the person or organization that submitted them, together with a certified statement that, for the following reasons, the petition lacks the minimum number of signatures to place it on the ballot:

(1) Signature sheets bearing election board page numbers ____ and bearing signatures of ____ persons were circulated by a person or persons prohibited from doing so under Section 560.

(2) A total of ____ signatures included in the petition(s) have been certified by the Election Board as ineligible by reason of not being qualified voters at the time of signing such petition.

(C) If the requisite number of signatures is verified by the Board of Election Supervisors, an election on the initiative or referendum shall be held within 30 days pursuant to Article XII of the Pascua Yaqui Constitution.

Section 600 Form of Ballot (2 PYTC § 6-2-600)

(A) The Board shall transmit to each polling place a certified copy of the official title, the descriptive title and the number of each measure and proposed amendment to the Constitution to be voted upon at the ensuing election.

(B) Proposed constitutional amendments shall be numbered consecutively beginning with the number 100, proposed initiative measures shall be numbered consecutively beginning with the number 200 and other measures submitted under the referendum shall be numbered consecutively beginning with the number 300. Proposed constitutional amendments shall be placed by themselves at the head of the ballot column, followed by initiated and referred measures in that order.

DRAFT

(C) The Board shall print the official title, the descriptive title and the number of each measure upon the official ballot. A proposed constitutional amendment shall be designated "proposed amendment to the Constitution by the Tribal Council", or "proposed amendment to the Constitution by the initiative", as the case may be. A measure referred by the Tribal Council shall be designated "referred to the people by the Tribal Council," a measure referred by petition shall be designated "referendum ordered by petition of the people" and a measure proposed by initiative petition shall be designated "proposed by initiative petition."

(D) There shall be printed on the official ballot immediately below the number of the measure and the official title of each measure a descriptive title containing a summary of the principal provisions of the measure, not to exceed 50 words, which shall be prepared by the Board and approved by the Attorney General. Immediately following the descriptive title of each measure there shall be printed the phrases:

A "yes" vote shall have the effect of _____

A "no" vote shall have the effect of _____

(E) The blank spaces shall be filled with a brief phrase, approved by the Attorney General, stating the essential change in the existing law should the measure receive a majority of votes cast in that particular manner. Opposite the phrases there shall be printed the number of the measure, and below the number of the measure and opposite each phrase there shall be printed the corresponding words "yes" or "no" and a square in which the voter may make a mark indicating his preference.

Section 610 Proclamation (2 PYTC § 6-2-610)

(A) The votes on measures and proposed constitutional amendments shall be counted, canvassed and returned by the Board of Election Supervisors. The total vote shall then be canvassed and proclamation of the results made in the manner prescribed by the Constitution and this Chapter.

(B) If two or more conflicting measures or amendments are approved at the same election, the Board of Election Supervisors shall proclaim which of the measures or amendments received the greatest number of affirmative votes.

SUBCHAPTER K RECALL

Section 620 Officers Subject to Recall; Number of Petitioners (2 PYTC § 6-2-620)

Every elected officer of the Pascua Yaqui Tribe is subject to recall from such office by the qualified voters of the Tribe. Thirty percent (30%) of the registered voters may, by recall petition, demand the officer's recall.

Section 630 Recall Petition; Limitations; Subsequent Petition (2 PYTC § 6-2-630)

(A) A recall petition shall not be circulated against any elected officer until he or she has held office for six months.

(B) After one recall petition and election, no further recall petition shall be filed against the same officer during the term for which he was elected unless the petitioners signing the petition first pay into the public treasury from which such election expenses were paid all expenses of the preceding election.

Section 640 Application for Recall Petition (2 PYTC § 6-2-640)

DRAFT

(A) A person or organization intending to file a recall petition shall, before causing the petition to be printed and circulated, submit an application setting forth his name or, if an organization, its name and the names and title of its officers, address, his intention to circulate and submit such petition, the text of the general statement required by Section 650 and a request for issuance of an official number to be printed on the signature sheets of the petition. Such application shall be submitted to the Board of Election Supervisors.

(B) On receipt of the application, the receiving officer shall forthwith assign a number to the petition, which number shall appear on the face of each copy thereof, and issue that number to the applicant. A record shall be maintained by the receiving officer of each application received, the date of its receipt and of the number assigned and issued to the applicant.

(C) The Board of Election Supervisors shall notify the elected officer when an application for recall petition has been submitted to the Board of Election Supervisors.

Section 650 Recall Petition; Contents; Submission for Verification; Non-Acceptance (2 PYTC § 6-2-650)

(A) A recall petition shall contain a general statement of not more than 200 words stating the grounds of the demand for the recall. The petition shall be submitted to the Tribal Council Secretary, who shall immediately submit the petition for verification of signatures to the Board of Election Supervisors.

(B) A recall petition shall not be accepted for such verification if more than 120 days have passed since the assignment date of the application number for recall petition as prescribed by Section 640(B).

Section 660 Form of Petition (2 PYTC § 6-2-660)

(A) The caption and body of a recall petition shall substantially comply with Section 970 - Form "L".

(B) The remaining portion of the petition shall be as prescribed for initiative and referendum petitions.

Section 670 Signatures and Verifications (2 PYTC § 6-2-670)

(A) Every qualified voter signing a petition for a recall election shall do so in the presence of the person circulating the petition and who is to execute the affidavit of verification on the reverse side of the signature sheet. At the time of signing, the qualified voter shall sign his full legal name and the voter so signing shall write, in the appropriate spaces following the signature, his residence address, giving the street and number, if any, the voter's tribal enrollment number, his post office address, and the date on which he signed the petition.

(B) The person before whom the signatures were written on the signature sheet shall, in an affidavit subscribed and sworn to by him before a notary public, verify that each of the names on the sheet was signed in his presence on the date indicated, and that in his belief each signer was a qualified voter of the Pascua Yaqui Tribe on the date indicated. All signatures of petitioners on a signature sheet shall be those of qualified voters who are registered to vote. In the absence of a legible signature, the name as it is printed shall be the name used to determine the validity of the signature.

(C) The affidavit shall be in the form prescribed for initiative and referendum. In addition, it shall also require a statement by the circulator that the circulator believes that the circulator and all signers thereof are qualified to vote in the recall election.

DRAFT

Section 680 Certification of Number of Signatures (2 PYTC § 6-2-680)

(A) Within ten (10) days, excluding Saturday, Sunday, or any legal holiday, after submission of a recall petition for verification of signatures pursuant to this Chapter, the Board of Election Supervisors shall have counted the number of signatures thereon and if the number equals or exceeds the minimum number required by the Pascua Yaqui Tribal Constitution it shall certify to the Tribal Council the number of sheets and signatures thereon. The Board shall total the number of signatures certified and;

(1) If the number equals or exceeds the minimum number required by the Constitution, it shall forthwith officially file the petition, notify the Tribal Chairman, stating that no more signatures need be checked, and the recall shall be placed on the ballot in the manner provided by law.

(2) If the number is insufficient to qualify for calling a recall election the Board shall so notify the person or organization submitting them and shall return the sheets to the persons or organization.

Section 690 Notice to Officer; Statement of Defense (2 PYTC § 6-2-690)

Immediately upon receipt of a recall petition, the Board of Election Supervisors shall advise the person against whom a recall petition is submitted. Within twenty-four (24) hours after the Board of Election Supervisors determines that the recall petition is valid, the Board of Election Supervisors must give written notice to the person against whom a recall petition is filed. The notice shall state that a recall petition has been filed, shall set forth the grounds thereof, and shall notify the person to whom it is addressed that he has the right to prepare and have printed on the ballot a statement containing not more than two hundred (200) words defending his official conduct. If the person fails to deliver the defensive statement to the Board of Election Supervisors within ten (10) days thereafter, his statement shall not be printed on the ballot, and shall be considered waived.

Section 700 Resignation of Officer (2 PYTC § 6-2-700)

If an officer against whom a recall petition is filed desires to tender his or her resignation, he may do so by filing a written tender thereof with the Board of Election Supervisors and in such event his or her resignation shall be accepted and the vacancy shall be filled as provided by law.

Section 710 Order for Special Recall Election (2 PYTC § 6-2-710)

If the officer against whom a petition is filed does not resign within five (5) days after the Board of Election Supervisors verifies that the minimum number of registered voters have signed the recall petition pursuant to Section 670, a special recall election shall be ordered to be held not less than twenty-five (25) days after such order.

Section 720 Nomination Paper; Form; Filing (2 PYTC § 6-2-720)

(A) Unless he or she otherwise requests in writing, the name of the officer against whom a recall petition is filed shall be placed as a candidate on the official ballot without nomination. Other candidates for the office may be nominated to be voted upon at the election, but the name of no candidate, whose nomination paper is signed by fewer qualified voters than required by Section 620, shall be placed upon the official recall ballot.

(B) The nomination papers shall substantially comply with Section 970 - Form "M."

DRAFT

(C) To each nomination paper shall be appended a certificate by a qualified voter entitled to vote for the candidate whose nomination he certifies, stating that to the best of his knowledge and belief all the signers thereof are qualified voters of the Tribe.

(D) Such nomination paper shall be filed not less than twenty (20) days prior to the date of the recall election.

Section 730 Form and Contents of Ballot (2 PYTC § 6-2-730)

On the ballots for the election shall be printed the reasons as set forth in the petition for demanding the officer's recall, and, in not more than two hundred (200) words, the officer's justification of his conduct in office. The form of the ballot shall conform as nearly as practicable to the ballot prescribed for general elections.

Section 740 General Election Laws Applicable (2 PYTC § 6-2-740)

The powers and duties conferred or imposed by law upon the Board of Election Supervisors, registration officers, canvassing boards and other public officials who conduct general elections, are conferred and imposed upon similar officers conducting recall elections under the provisions of this subchapter together with the penalties prescribed for the breach thereof.

Section 750 Election Results (2 PYTC § 6-2-750)

(A) The candidate receiving the largest number of votes shall be declared elected for the remainder of the term. Unless the incumbent receives the largest number of votes, he shall be deemed removed from office upon qualification of his successor. If the incumbent's successor does not qualify within five days after the results of the election have been declared, the office shall be vacant, and may be filled as provided by law.

(B) The incumbent shall continue to perform the duties of his office until the results of the election are officially declared.

SUBCHAPTER L ELECTION DISPUTES

Section 760 Contest of Tribal Election; Grounds (2 PYTC § 6-2-760)

(A) Any tribal member who is a registered voter (hereinafter "voter") has the right to contest the election of any person elected to a tribal office, or the declared result of an initiated or referred measure, upon any of the following grounds:

(1) For misconduct on the part of election board or any members thereof in any of the voting polling places of the Tribe, or on the part of any officer making or participating in a canvass for a tribal election.

(2) That the person whose right to the office is contested was not at the time of the election eligible for the office.

(3) That the person whose right is contested, or any person acting for him, has given to a voter, inspector, judge or clerk of election, a bribe or reward, or has offered such bribe or reward for the purpose of procuring his or her election, or has committed any other offense against the elective franchise.

(4) On account of illegal votes.

DRAFT

(5) That by reason of erroneous count of votes the person declared elected or the initiative or referred measure, or proposal to amend the Constitution, or other question or proposal submitted, which has been declared carried, did not in fact receive the highest number of votes for the office or a sufficient number of votes to carry the measure, amendment, question or proposal.

(B) Copies of the dispute procedure shall be available to any eligible voter upon request made to the Board of Elections Supervisors' Office between the hours of 8:00 a.m. and 4:30 p.m. located at 7474 South Camino de Oeste, Tucson, Arizona 85757. Copies of this procedure shall be posted in a conspicuous location at all polling places during the time polling places are open for tribal voting. At least 30 days prior to any tribal election for tribal office, all candidates shall be provided with a copy of this procedure.

(C) All proceedings under these provisions shall be conducted informally and in a non-adversarial manner. All tribal agencies charged with conducting investigations of any election complaint shall have the obligation to thoroughly and fairly investigate all complaints in a prompt manner.

(D) Notwithstanding any provision herein, no person shall serve in a decision-making role regarding any complaint in which such person may have a conflict of interest or the appearance of a conflict of interest. It is the express policy of the Board to avoid actual conflict of interest or the appearance of impropriety or conflict of interest by the Board or its members. A complainant voter may waive any such conflict of interest and allow the Board to proceed.

Section 770 Dispute Procedure (2 PYTC § 6-2-770)

(A) In the event that any registered tribal voter has a complaint or dispute about any election matter, the complaining voter must file a sworn written complaint with the Board within five (5) days after completion of the canvass of the election and declaration by the Board of the election results to the chairman of the Tribal Council, setting forth:

(1) The name and residence of the party contesting the election, and that he is a registered voter of the Tribe.

(2) The name of the person whose right to office is contested, or the title of the measure, or constitutional amendment, or other proposition as it appeared upon the official ballot.

(3) The office the election to which is contested.

(4) The particular grounds of the contest.

(B) The Statement shall be verified by the affidavit of the contester that he believes the matters and things therein contained are true.

(C) The Board shall prepare and provide a complaint form in substantially the same form as Section 970 Form C upon request to any Tribal voter.

(D) The written complaint shall be submitted to the Board Chairperson unless the complaint includes allegations against the Board Chairperson. In that event the complaint shall be filed with the Board Vice Chairperson.

(E) The Tribal member submitting the complaint shall receive a copy of the complaint indicating that the complaint was received by the Board Chairperson or the Board Vice Chairperson, if Section 770(D) is applicable, and the time and date of receipt.

DRAFT

(F) The Board shall meet within five (5) days of receipt of the Complaint and shall either: (a) schedule a hearing within five (5) days to receive evidence and testimony; or (b) decline to hear the complaint because (1) the Complaint is invalid under Section 770 (A) or (B), (2) the majority of the Board has a conflict of interest, or (3) the complaint is against the Board as a body in which case procedures outlined in Section 770(H) shall apply.

(G) In all Board hearings, the Complainant shall be notified of the date, time and place of said hearing and of his right to be present and to introduce evidence and testimony. The Board Chairperson or his designee shall preside over the hearings. Board members may examine any complainant, witness or evidence presented.

(H) In the event that the Board declines to hear a complaint, then a written report shall be provided by the Board to the Complainant, the Tribal Council Chairman, and the Tribal Chief Judge indicating all reasons the Board declined act. Such written report is to be provided within two (2) days of the Board making the decision to decline to hear the matter. The complainant may then file an action in the Tribal Court but no later than five (5) days after he receives notice of the Board's declination.

(I) Within five (5) days after completion of the scheduled hearing, the Board shall make a decision regarding the complaint either confirming the election or annulling and setting aside the election. The findings and decision of the Board shall be in a written report, a copy of which shall be provided to the complaining person, the Tribal Chairman and Chief Tribal Judge. In the event the Board finds evidence of a violation of the penal provisions of this Chapter, the Board shall promptly provide all evidence of such violation to the tribal prosecutor for review of possible criminal prosecution.

Section 780 Judicial Review (2 PYTC § 6-2-780)

(A) Within five (5) days of receipt of the Board's written decision, the Complainant, if not satisfied with said decision, may file a *de novo* appeal with the Tribal Court.

(B) If the contest involves an office voted on by the voters, the summons shall be served upon the contestee, or, if the contest involves a question, proposal, measure or proposition voted on, the summons shall be served upon the Tribal Council Chairman.

Section 790 Summons; Form; Answer (2 PYTC § 6-2-790)

(A) Upon filing of a complaint, the clerk of the Tribal Court shall issue a summons to be served on the contestee as summons in civil actions are served, except it shall require contestee to file an answer to the statement with the clerk of the court within five (5) days after service of the summons, exclusive of the day of service. If the answer is not filed within such period, the court shall proceed with the hearing of the contest *ex parte*. If the contest is on an initiative or referred measure, a proposed constitutional amendment, or other proposition or question submitted, which has been declared carried, the summons shall be served upon the Tribal Council Chairman who may appear and answer the statement of contest, or, by leave of court, a voter of the Tribe may intervene and defend the contest.

(B) If the election of a person declared elected is contested, the summons shall substantially comply with Section 970 - Form "D."

(C) If the contest is on an initiative or referred measure, a proposed constitutional amendment or other proposition or question submitted, which has been declared carried, the summons shall substantially comply with Section 970 - Form "E."

DRAFT

Section 800 Time for Hearing Contest; Continuance; Findings of the Court; Judgment (2 PYTC § 6-2-800)

(A) In any contest brought under the provisions of Section 780 upon the filing of the answer, or if no answer is filed, upon the expiration of the time specified in the summons, the court shall set a time for the hearing of the contest, not later than ten (10) days after the date on which the contest was filed, which may be continued but not to exceed five (5) days for good cause shown.

(B) The court shall continue in session to hear and determine all issues arising in the contested elections. After hearing the proofs and allegations of the parties, and within five (5) days after the submission thereof, the court shall file its findings and immediately thereafter shall pronounce judgment, either confirming or annulling and setting aside the election.

(C) If in an election contest it appears that a person other than the elected candidate has the highest number of legal votes, the court shall declare that person elected and that the certificate of election of the person whose office is contested is of no further legal force or effect.

Section 810 Inspection of Ballots before Trial; Petition; Bond; Appointment of Inspectors (2 PYTC § 6-2-810)

(A) After the statement of contest has been filed and the action is at issue, either party may have the ballots inspected before preparing for trial.

(B) The party applying for the inspection of ballots shall file with the clerk of court a verified petition stating that he cannot properly prepare for trial without an inspection of the ballots and shall file with the petition a bond, approved by the clerk, with two (2) sureties, in the principal amount of one thousand dollars ($1,000.00), conditioned that he will pay the costs and expenses of the inspection if he fails to maintain the contest. Thereupon the court shall appoint three (3) persons, one selected by each of the parties and one by the court, by whom the inspection shall be made. If either party fails to name a person to act in making the inspection, the court shall make the appointment.

(C) The inspection of the ballots shall be made in the presence of the legal custodian of the ballots and the compensation of the inspectors shall be fixed by the court and taxed as costs against the losing party.

Section 820 Timeliness for Election Dispute Procedure (2 PYTC § 6-2-820)

(A) Sworn complaint filed within five (5) days of election canvass and declaration of result by the Election Board to Tribal Council Chairman.

(B) Election Board meets within five (5) days of receipt of complaint to schedule a hearing or decline jurisdiction.

(C) If the Election Board declines to hear a complaint due to conflict and complainant does not waive the conflict, the Election Board must file a written declination report with Tribal Council Chairman, Tribal Chief Judge and complainant within two (2) days of the 820(B) Board meeting.

(D) Hearing held within five (5) days of the 820(B) Board meeting.

(E) Within five (5) days after the hearing is completed, the Election Board files the decision with the complainant, Tribal Council Chairman and Chief Tribal Judge.

DRAFT

(F) Appeal to Tribal Court must be filed within five (5) days of the Board's filed decision in 820(E).

SUBCHAPTER M VIOLATIONS; REMEDIES; PENALTIES

Section 830 Bribery of Electors (2 PYTC § 6-2-830)

It is unlawful to give or promise any money or other thing of value to any person for the purpose of influencing said person to vote or refrain from voting at any tribal election, or to vote for any particular candidate at such election; or to give or cause to be given, or promise to be given, any money or other thing of value to any person with the intent that any part of said money or thing of value shall be used for bribery in connection with any tribal election; or to knowingly give or cause to be given or promise to be given, any money to any person as reimbursement for money or other things of value expended by such person in whole or in part for bribery at any tribal election; provided, however, that it shall not be unlawful for any candidate personally or by agent to provide transportation to the polling places to any voter.

Section 840 Coercion of Voters (2 PYTC § 6-2-840)

It is unlawful to make use of force, or to request another person to sue or threaten force, in order to influence any person's vote in any tribal election.

Section 850 Intimidation of Pascua Yaqui Employees by Employers; Campaigning by Employees (2 PYTC § 6-2-850)

(A) It is unlawful for any employer to threaten a Pascua Yaqui employee with dismissal from employment, reduction of pay, loss of seniority, transfer, or less favorable working conditions, for the purpose of influencing such employee to vote or to refrain from voting, or to vote for any particular person or issue in any tribal election.

(B) It is unlawful for any employer to attempt, by any means whatsoever at his place of business, to influence the vote of any Pascua Yaqui employee in any tribal election.

(C) It is unlawful for any employer to attempt to prohibit, limit, or restrict the political activities of any Pascua Yaqui employee beyond the employer's personnel policies.

(D) It is unlawful for any employee of the Pascua Yaqui Tribe, its enterprises, or contractors to politically campaign for a person or issue or attempt to influence the vote of any other person during working hours.

(E) As used in this section, the term "employer" means any natural person, association of natural persons, tribal enterprise, independent contractor, corporation, or other entity, employing one or more members of the Pascua Yaqui tribe or engaging their services under contract, and any person acting as agent for such person, association of persons, tribal enterprise, corporation, or other entity.

Section 860 Interference With or Corruption of Election Officer (2 PYTC § 6-2-860)

It is unlawful for any person to offer or give a bribe to the Chairman or any member of the Board of Election Supervisors of the Pascua Yaqui Tribe or to any registrar appointed by the Board of Election Supervisors of the Tribe or any poll judges or any poll clerk; or to influence or attempt to influence any of said officers or staff in the performance of their official duties by means of force, or threats, or promise of any nature.

Section 870 Violations of Duty by Election Board (2 PYTC § 6-2-870)

DRAFT

It is unlawful for any Board Chairman, members of the Board of Election Supervisors, executive elections director, any registrar appointed by the Board of Election Supervisors or any poll judge or any poll clerk to knowingly and willfully fail or neglect to perform any duty under any part of this Chapter in the manner prescribed by this Chapter, or to accept any money or other thing of value from any candidate or from anyone acting or purporting to act on behalf of any candidate.

Section 880 Illegal Registration or Voting (2 PYTC § 6-2-880)

It is unlawful for any person knowing he does not possess the qualifications for eligibility to vote in a tribal election, to register or attempt to register to vote in such tribal election, or to vote in such election; or for any person who is not registered as a voter of the Pascua Yaqui Tribe to vote or attempt to vote in any tribal election; or for any registered voter to vote or attempt to vote at more than one polling place.

Section 890 Penalties (2 PYTC § 6-2-890)

(A) Any member of the Pascua Yaqui Tribe who shall violate any section of this Chapter shall be guilty of an offense against the Pascua Yaqui Tribe. If not otherwise provided, anyone in violation of this Chapter shall be guilty of a Class 3 Misdemeanor.

(B) Any non-member of the Pascua Yaqui Tribe who shall violate any section of this Chapter may be fined or expelled from land under the jurisdiction of the Pascua Yaqui Tribe by the Tribal Council; provided, however, that if any person who is charged with an offense under this Chapter on the ground that he is not a member of the Pascua Yaqui Tribe, the court shall receive any evidence offered on behalf of the Tribe that such person has registered to vote or has voted in a tribal election; and if the court finds that such person has so registered or has so voted, he shall be conclusively presumed to be a member of the Pascua Yaqui Tribe, and the court shall have jurisdiction to try his case and to execute its sentence upon him.

(C) Any association, corporation, or other entity which shall violate any section of this Chapter shall be ordered to show cause before the Tribal Council why it should not be barred from receiving any lease, right-of-way, contract, franchise, or concession of any character whatsoever thereafter from the Pascua Yaqui Tribe. If upon hearing of such order to show cause, it appears to the Tribal Council that the said corporation is guilty of violating such section, said association, corporation, or other entity shall be barred for a period of not less than one year nor more than five (5) years from receiving any lease, right-of-way, contract, franchise, or concession of any character whatsoever from the Pascua Yaqui Tribe.

Section 900 Prohibition on Signing Petition for Profit (2 PYTC § 6-2-900)

Any person who gives or receives money or any other thing of value for signing an initiative or referendum petition, excluding payments made to a person for circulating such petition, is guilty of a Class 1 Misdemeanor. Any non-member not subject to the criminal jurisdiction of the Tribal Court who violates this section shall be subject to exclusion from the Reservation. Any signature obtained in violation of this section shall be void and shall not be counted in determining the legal sufficiency of the Petition.

Section 910 Unlawful Acts; Violations; Penalty (2 PYTC § 6-2-910)

(A) Every qualified voter of the Tribe may sign a referendum or initiative petition upon any measure which he or she is legally entitled to vote upon.

(B) A person signing any name other than his own to a petition, except in a circumstance where he or she signs for a person in the presence of and at the specific request of such person, who is incapable of signing his or her own name, because of physical infirmity or knowingly signing his

DRAFT

name more than once for the same measure, or proposed constitutional amendment, at one election, or who is not at the time of signing a qualified voter of the Tribe, or any officer or person willfully violating any provision of this Chapter, shall be guilty of a Class 1 Misdemeanor. Any signature obtained in violation of this Chapter shall be void and shall not be counted in determining the legal sufficiency of the petition.

Section 920 Coercion or Intimidation with Respect to Petitions (2 PYTC § 6-2-920)

A person who coerces any other person by menace or threat, or threatens any other person to the effect that the other person will or may be injured in his business, or discharged from employment, or that he or she will not be employed, to sign or subscribe, or to refrain from signing or subscribing, his or her name to an initiative or referendum petition, or, after signing or subscribing his or her name, to have his or her name taken therefrom, is guilty of a Class 1 Misdemeanor. Persons not subject to the criminal jurisdiction of the Tribal Court shall be subject to exclusion from the Reservation.

Section 930 Destroying, Suppressing or Filing False Initiative or Referendum Petition; Classification (2 PYTC § 6-2-930)

A person filing an initiative or referendum petition or measure who, at the time of filing the petition or measure, knows it is falsely made, or who knowingly destroys or suppresses an initiative or referendum petition or measure, or any part thereof, which has been duly filed with the Board of Election Supervisors or Tribal Secretary as provided by this article is guilty of a Class 1 Misdemeanor.

Section 940 Prohibition on Circulating of Petitions by Certain Persons (2 PYTC § 6-2-940)

No member of the Board of Election Supervisors and no person other than a qualified voter shall circulate a recall petition and all signatures verified by any such unqualified person shall be void and shall not be counted in determining the legal sufficiency of the petition.

Section 950 Prohibition on Signing Petition for Profit; Classification (2 PYTC § 6-2-950)

Any person who knowingly gives or receives money or any other thing of value for signing a recall petition, excluding payments made to a person for circulating such petition, is guilty of a Class 3 Misdemeanor.

Section 960 Coercion or Other Unlawful Acts; Classification (2 PYTC § 6-2-960)

(A) A person who knowingly induces or compels any other person, either directly or indirectly or by menace or threat that he will or may be injured in his business, or discharged from employment, or that he will not be employed, to sign or subscribe, or to refrain from signing or subscribing, his name to a recall petition, or, after signing or subscribing his name, to have his name taken therefrom, is guilty of Class 1 Misdemeanor.

(B) A person knowingly signing any name other than his own to a petition, except in a circumstance where he signs for a person in the presence of and at the specific request of such person who is incapable of signing his own name because of physical infirmity or knowingly signing his name more than once for the same recall issue at one election, or who knowingly is not at the time of signing a qualified voter of the Pascua Yaqui Tribe is guilty of a Class 3 Misdemeanor.

DRAFT

SUBCHAPTER N FORMS
Section 970 Forms (2 PYTC § 6-2-970)

FORM "A"

ABSENTEE BALLOT REQUEST

State of _____
County of _____

I, _____, do solemnly swear that I am a qualified voter of the Pascua Yaqui Tribe and make an application to the Board of Election Supervisors for an absentee ballot for the following reason(s): (place an "X" next to your reasons)

_____ I expect to be absent from my polling place at the time of holding the election.

_____ I am physically unable to go to the polls.

_____ I am 55 years of age or older.

_____ My place of residence is more than fifteen (15) road miles from my polling place.

_____ I cannot go to the polls on the day of the election because of the tenets of my religion.

_____ I have no vision or acuity.

Signed this ____ day of _____, 20____.

_____ _____
Signature of Voter Tribal Enrollment Number

Address:

_____

_____

Mailing Address (where absentee ballot should be sent):

_____

_____

Phone: _____

DRAFT

FORM "B"

BALLOT AFFIDAVIT; FORM

State of Arizona, County of _____, I, _____do solemnly swear that I am a registered voter of the Pascua Yaqui Tribe. I further swear or affirm that I personally voted the enclosed ballot (or that it was marked according to my instructions because I was unable to do so).

_____
Signature of Voter

_____
Tribal Enrollment Number

Address _____

_____

DRAFT

FORM "C"

COMPLAINT FORM

(A) Instructions

(1) Please fill out this complaint form as completely as possible. If you have statements of witnesses, please attach them to this complaint form.

(2) After completing this form, please submit the form to the Chairperson of the Election Board unless the complaint is against the Chairperson of the Election Board, in which case, submit your complaint to the Vice Chairperson of the Election Board.

(3) You will be asked to appear at a hearing to give your sworn testimony and the testimony of any witnesses.

(4) After the complaint is investigated, you will be provided with a written report of the investigation and the recommended actions.

(5) You have the right to *de novo* appeal to the Tribal Court if you are not satisfied with the decision of the Board.

(B) Complaint

(1) Please give a detailed description of the actions about which you are complaining. If you need more space, please attach separate sheets of paper to this form.

_____

_____

_____

(2) Where did the complained of act happen? _____

(3) When did it occur? (Date and time) _____

(4) Who did the act? _____

(5) Please give the names of all witnesses: _____

(6) What are you asking the board to do regarding your complaint? _____

(7) Please provide your name, mailing address and telephone number where you may be contacted.

_____

(8) State of Arizona)
) ss.
County of _____)

_____ having been first duly sworn, deposes and says:

That he/she is the person who executed the foregoing Complaint.

DRAFT

That he/she has read the same and knows the contents thereof.

That the matters stated therein are true to the best of his/her knowledge, except such matters as are stated to be upon information and belief, and, as to those matters, he/she believes them to be true.

_____
Signature

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20_____by _____.

_____
Notary Public

My Commission Expires:
_____

(FOR BOARD USE ONLY)

1. Date Complaint given to complainant: _____
2. Date completed complaint received: _____
3. Completed complaint copied and given to:
   Board Chairperson _____
   Board Vice Chairperson _____
   Election Board Members _____
   Tribal Council Chairman _____
4. Board meeting scheduled for: _____
5. Date of Board declination: _____
6. Board decision attached: _____
7. Board decision sent to complainant: _____
   Tribal Chairman: _____
   Tribal Chief Judge: _____

DRAFT

FORM "D"

SUMMONS

IN THE TRIBAL COURT OF THE PASCUA YAQUI TRIBE

_____,
Contestant,
vs.
_____,
Contestee.

SUMMONS

To the above named _____, contestee;

You are hereby notified that _____ a Tribal voter of the Pascua Yaqui Tribe and a resident of _____County, State of Arizona, has on this day filed in this Court a statement of contest wherein he contests your election to the office of _____ at the election held on the _____day of _____, 20____, a copy of which statement accompanies this summons.

You are therefore required to file your answer to said statement with the clerk of this Court within five days after the service of this summons upon you exclusive of the day or service or the court will proceed with the hearing of such contest ex parte.

Given under my hand and the seal of said court this ____day of _____, 20___.

_____
Clerk of Tribal Court

DRAFT

FORM "E"

SUMMONS

IN THE TRIBAL COURT OF THE PASCUA YAQUI TRIBE

In Matter of the Challenge to a Certain Constitutional Amendment (or proposition, describing it briefly, as the case may be.)

To the Honorable _____, Tribal Chairman.

You are hereby notified that _____, a tribal voter residing at _____ in the County of _____, State of Arizona has this day filed with the clerk of this court a statement wherein he contests the election by which the constitutional amendment (or proposition briefly describing it) was declared to have been carried. A copy of his said statement is hereto attached and herewith served upon you. You are further notified that unless an answer to said statement is filed within five days after the service of this summons upon you the court will proceed with the hearing of said contest ex parte.

Given under my hand and the seal of said court this ____ day of _____, 20__.

_____
Clerk of Tribal Court

DRAFT

FORM "F"

PETITION FOR REFERENDUM

To the Secretary of the Tribal Council:

We, the undersigned enrolled members and qualified voters of the Pascua Yaqui Tribe, respectfully order that Ordinance No. ___entitled (title of fact or ordinance, and if the petition is against less than the whole act or ordinance then set forth here the item, section, or part, of any measure on which the referendum is used), passed by the Tribal Council on _____, shall be referred to a vote of the qualified voters of the Pascua Yaqui Tribe for their approval or rejection within 30 days of verification of signatures on the petition, and each for himself says:

I have personally signed this petition with my first and last names. I have not signed any other petition for the same measure. I am a qualified voter of the Pascua Yaqui Tribe.

WARNING:

> It is a criminal offense for any person to knowingly sign an initiative or referendum petition with a name other than his own, except in a circumstance where he signs for a person, in the presence of and at the specific request of such person, who is incapable of signing his own name because of physical infirmity, or to knowingly sign his name more than once for the same measure, or to knowingly sign such petition when he is not a qualified elector.

Signature _____

Name (first and last name printed) _____

Residence Address (street & no., if any) _____

Arizona Post Office address _____

City or Town (if any) _____

Date Signed _____

(15 lines for signatures which shall be numbered)

The validity of signatures on this sheet must be sworn to by the circulator before a notary public on the form appearing on the reverse side.

Assigned by Board of Election Supervisors, Number_____

DRAFT

FORM "G"

PETITION FOR INITIATIVE

To the Secretary of the Tribal Council:

We, the undersigned, enrolled members and qualified voters of the Pascua Yaqui Tribe, respectfully demand that the following proposed law (or amendment to the constitution, or other initiative measure), shall be submitted to the qualified voters of the Pascua Yaqui Tribe for their approval or rejection within 30 days of verification of signatures on the petition, and each for himself says:

I have personally signed this initiative with my first and last names. I have not signed any other petition for the same measure. I am a qualified voter of the Pascua Yaqui Tribe.

WARNING:

> It is a criminal offense for any person to knowingly sign an initiative or referendum petition with a name other than his own, except in a circumstance where he signs for a person, in the presence of and at the specific request of such person, who is incapable of signing his own name because of physical infirmity, or to knowingly sign his name more than once for the same measure, or to knowingly sign such petition when he is not a qualified elector.

Signature _____

Name (first and last name printed) _____

Residence Address (street & no., if any) _____

Arizona Post Office address _____

City or Town (if any) _____

Date Signed _____

(15 lines for signatures which shall be numbered)

The validity of signatures on this sheet must be sworn to by the circulator before a notary public on the form appearing on the reverse side.

Assigned by Board of Election Supervisors, Number_____

DRAFT

FORM "H"

(The affidavit shall be in the following form printed on the reverse side of each signature sheet)

AFFIDAVIT OF CIRCULATOR

State of Arizona)
) ss.
County of _____)

I, _____ (print name), a qualified voter of the Pascua Yaqui Tribe, in the State of Arizona, under the penalty of law, depose and say that each signed this sheet of the foregoing petition in my presence on the date indicated, and I believe that each signer's name, residence address or post office address are correctly stated, and that each signer is a qualified voter of the Pascua Yaqui Tribe.

Signature of Affiant: _____

Tribal Enrollment Number: _____

(Residence Address, street and number, if any, of affiant) _____

(Post office address of affiant in county of _____) _____

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20__.

_____
Notary Public

My Commission Expires: _____

DRAFT

FORM "I"

AFFIDAVIT OF SIGNATURE WITHDRAWAL

STATE OF ARIZONA)
) ss.
COUNTY OF)

I, _____, being first duly sworn, say that I am a qualified voter of the Pascua Yaqui Tribe.

That my residence address is _____.
(street and number, if any)
That my post office address is _____.

That I am registered to vote.

My tribal enrollment number is: _____

That I signed a petition to which the Board assigned serial number _____.

That it is my intention by the signing and filing of this affidavit to withdraw my signature from that petition.

_____
Signature of Affiant

Subscribed and sworn to before me this ____day of _____20____.

_____
Notary Public

DRAFT

FORM "J"

CERTIFICATION OF THE BOARD

We, the Board of Election Supervisors for the Pascua Yaqui Tribe, do hereby certify that we received the attached signature sheets, the affidavit of circulator page or pages and the attached list of page numbers in connection with initiative (referendum) petition serial number _____, that we have caused such signatures to be compared with the records of this office and that those records disclose that the following persons whose signatures:

(1) Were received were found not to be qualified voters at the time of signing the petition. A total of _____ persons out of those reviewed were found to be ineligible.

(2) Appear in execution of the affidavits of circulator were not qualified voters at the time of circulating the petition:

Name	Address	Page Nos. of Sheets Circulated	(Yes) or (No)	Qualified Electors

The records of this office show that each other person whose signature appears in execution of the affidavit of circulator was a qualified voter at the time of circulating the petition.

Dated:_____

_____
Chairman, Board of Election Supervisors

DRAFT

FORM "K"

DISPOSITION OF PETITIONS BY BOARD

_____ signature pages bearing _____ signatures for initiative (referendum) petition serial number ____ have been refused for filing in this office because the person circulating them was not a qualified voter at the time of circulating the petition or was prohibited by Section 560 at the time of circulating the petition. A total of _____ signatures were found to be ineligible. The actual number of remaining signatures for such initiative (referendum) petition number ____ is equal to or in excess of the minimum required by the Constitution to place a measure on the election ballot. The number of valid signatures filed with this petition, based on our review appears to be at least one hundred percent of the minimum required or through examination of each signature has been certified to be greater than the minimum required by the Constitution.

Date:_____ _____

Chairman-Board of Election Supervisors signature

The Board shall then forthwith notify the Tribal Council Chairman that a sufficient number of signatures has been filed and that the initiative or referendum shall be placed on the ballot in the manner provided by law.

DRAFT

FORM "L"

FORM OF PETITION

We, the qualified voters of the Pascua Yaqui Tribe, from which _____ (name and title of office) was elected, demand his or her recall.

The grounds of this demand for recall are as follows:

(State in 200 words or less the grounds of the demand)

DRAFT

FORM "M"

NOMINATION PAPER

Nomination Paper-Recall Election

We, the undersigned voters, qualified to vote in the recall election mentioned herein, hereby nominate _____, who resides at _____, in the county of _____ to be a candidate in the recall election for the office of _____ to be held on the _____ day of _____, 20__ and we further declare that we have not signed and will not sign any nomination paper for any other person for such office.

Names of Signers	Residence Address	ID #

DRAFT

DRAFT