

RESOLUTION OF THE KAYENTA TOWNSHIP COMMISSION

Enacting the Home Rule Ordinance, Chapter 1 of the Kayenta Township Code of Ordinances

WHEREAS:

1. The Kayenta Township Commission ("KTC") has the authority and responsibility to govern for the welfare of the Kayenta Township ("Township") and its residents, including the enactment of such ordinances, rules and regulations as it deems in the best interest of the Township; and
2. Now that the Navajo Nation Council has statutorily established the Township as a permanent municipal home-rule government constituting a political subdivision of the Navajo Nation, there is a need to enact an ordinance that will independently provide the basic functions, authorities and structure of the Township premised upon the principle that the Township may perform any function and exercise any power not denied by or inconsistent with the general laws of the Nation.

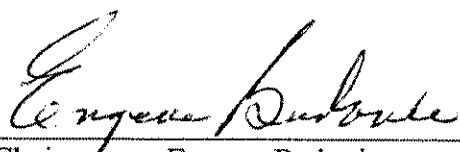
NOW THEREFORE BE IT RESOLVED THAT:

The Kayenta Township Commission hereby enacts the attached Home Rule Ordinance, Chapter 1 of the Kayenta Township Code of Ordinances, including the applicable sections of 11 N.N.C. §§401 *et seq.*, as provided by Section 1-110 of the Home Rule Ordinance.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Kayenta Township Commission at a duly called meeting at Kayenta, Arizona, at which a quorum was present and that same was passed by a vote of 4 in favor, 0 opposed, and 0 abstained this 9th day of **May, 2005**.

Motion: Anthony C. Peterman
Second: Charles H. Young



Chairperson, Eugene Badonie
Kayenta Township Commission

CHAPTER 1 HOME RULE

Section 1-101 Title

This Chapter shall be cited as the Home Rule Ordinance.

History

KTC __-__-05 (__, 2005)

Section 1-102 Definition

For purposes of the entire Kayenta Township Code:

- A. "KTC" means the Kayenta Township Commission
- B. "Township" means the Kayenta Township.

Section 1-103 Authority; Scope

- A. The Township, pursuant to 2 N.N.C. §§ 4081-4185, as amended by Navajo Nation Council Resolution CJY-42-03, was established as a home rule municipality on July 25, 2003 to be governed by the KTC and with the KTC having jurisdiction over all that area authorized and designated by Navajo Nation Council Resolution CN-86-85.
- B. Pursuant to 2 N.N.C. §§ 4083(C) and 4084, the KTC has the duty, authority, and responsibility to perform all functions necessary for local self government, consistent with all generally applicable laws and regulations of the federal government and the Navajo Nation.
- C. As acknowledged by Navajo Nation Council Resolution CJA-1-96, the source of home rule governance is the inherent authority of Navajo communities to govern over local matters.
- D. This ordinance is to designate the name of the Township and its metes and bounds, establish and enumerate the fundamental governing authority of the Township and the KTC, prescribe the structure of the government and provide for making laws by referendum and initiative.

History

KTC __-__-05 (__, 2005)

The Township was first statutorily established as a pilot project of the Navajo Nation Council; Resolution CN-86-85. Resolutions CJA-3-96 and CN-76-96 legislated that the appointed Kayenta Planning Board be replaced with an elected KTC and authorized enactment of a local sales tax.

Resolution CJY-42-03 was vetoed on Aug. 8, 2003. The Navajo Nation Council overrode the veto by Resolution CAU-47-03 (Aug. 29, 2003).

Section 1-104 Name

The government, territory and body politic of the Township shall be known as the Kayenta Township.

History

KTC -- -05 (__, 2005)

Section 1-105 Boundary

A. The Township shall be that portion of the community of Kayenta bounded as follows:

The Township boundary survey lies within the area that is encompassed by 36°16'00" north latitude to 36°40'00" north latitude and 110°08'00" west longitude to 110°20'00" west longitude, surrounds the area known as Kayenta, Navajo Nation (AZ), and is more particular described as follows:

Commence at the Navajo Control system bass cap Kay No. 30, which is located 565.255 feet south and 2631.410 feet east of B.I.A. r/w marker found at north side of Highway 160 at station 1026+56.13 approx. 1/3 mile east of highway junction 160 & 163 in Kayenta;

Thence run south 59°47'11" west for 2901.270 feet to the true point of beginning, which is a brass cap stamped KCBS NO. 1,
Thence north 71°57'20" east, 3272.938 feet to KCBS NO. 2,
Thence north 79°18'00" east, 1645.168 feet to KCBS NO. 3,
Thence north 47°29'23" east, 3228.262 feet to KCBS NO. 4,
Thence north 79°06'54" east, 2928.265 feet to KCBS NO. 5,
Thence north 30°22'32" west, 8971.990 feet to KCBS NO. 6,
Thence north 84°42'24" west, 4747.702 feet to KCBS NO. 7,
Thence south 66°09'52" west, 2681.383 feet to KCBS NO. 8,
Thence south 80°24'49" west, 3356.906 feet to KCBS NO. 9,
Thence south 82°17'40" west, 4575.705 feet to KCBS NO. 10,
Thence south 09°24'14" east, 1162.670 feet to KCBS NO. 11,
Thence south 22°04'37" east, 687.773 feet to KCBS NO. 12,
Thence north 67°10'05" east, 1254.370 feet to KCBS NO. 13,
Thence south 13°54'37" east, 1409.019 feet to KCBS NO. 14,
Thence north 70°54'21" east, 1281.889 feet to KCBS NO. 15,
Thence north 55°19'05" east, 2002.332 feet to west right of way marker of Highway 163, which is brass cap in concrete, stamped B.I.A. ROADS, which is also KCBS NO. 17, thence south 27°07'03" east along said right of way line for a distance of 2334.738 feet to brass cap in concrete stamped B.I.A. ROADS, which is also KCBS NO. 18,
Thence south 60°49'52" west, 2858.160 feet to KCBS NO. 19,

Thence south 12°35'25" east, 3788.928 feet to KCBS NO. 20,
Thence north 78°41'01" east, 3947.356 feet to KCBS NO. 21,
Thence south 27°16'46" east, 1751.478 feet to KCBS NO. 22,
Thence north 63°36'50" east, 251.877 feet to KCBS NO. 23,
Thence north 61°48'38" east, 811.149 feet to KCBS NO. 24,
Thence north 28°09'11" west, 812.000 feet to KCBS NO. 1.

Said parcel contains 3611.47 acres, more or less.

- B. Pursuant to 2 N.N.C. § 4083 (B), as amended, the Township boundary is subject to amendment pursuant to Kayenta Township ordinance and the concurrence by the Kayenta Chapter.

History

KTC_-_05 (__, 2005)

Navajo Nation Council Resolution CN-86-85 (Nov. 5, 1985) originally withdrew land for the Township.

Section 1-106 Commission; Authority

- A. The governmental powers of the Township shall be vested in the KTC.
- B. The composition, qualifications, terms, election and other requirements and restrictions on the KTC shall be enumerated in the Township Election Ordinance.
- C. The KTC, for the general health, safety and welfare of the Township, shall have the following general authorities, including, but not limited to:
1. Adopt, amend or repeal ordinances, resolutions, rules and regulations for the governance of the Township and to enforce the observance of such ordinances, resolutions, rules and regulations, and to punish violations thereof by fine or imprisonment or both, and to classify such violations as criminal or civil offenses;
 2. Acquire, maintain and regulate the use of all lands within the boundaries of the Township, including, but not limited to:
 - a. Issue home and business site leases and such other leases, permits and authorizations as the KTC may deem necessary;
 - b. Adopt a land use plan and zoning code; and
 - c. Acquire property by eminent domain.

3. Control all finances of the Township, including, but not limited to:
 - a. Acquire, generate, administer and appropriate money and provide for the payment of debts and expenses;
 - b. Adopt an annual budget;
 - c. Borrow money and incur indebtedness on behalf of the Township; cause to be executed and delivered for its purpose, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations, and such other evidence of debt and securities;
 - d. Open bank accounts and protect and invest assets;
 - e. Enter into agreements, contracts and sub-contracts for Indian nation, federal, state, county or other funds;
 - f. Levy taxes; and
 - g. Establish fees and assessments.
4. Provide the Township with:
 - a. Water, construct public wells, cisterns, reservoirs and such pumps, pipelines or ditches as are necessary within the Township, or beyond the limits thereto;
 - b. Sewers and drains;
 - c. Electricity; and
 - d. Streets, sidewalks, bridges, culverts, crossways and streetlights.
5. Enter into contracts and agreements for the provisions of goods and services.
6. Enter into agreements with chapters, municipalities, townships, Indian Nations, federal government and the states and their agencies and subdivisions.
7. Establish such dispute resolutions systems as deemed appropriate to resolve disputes and claims arising from Township legislative, executive or judicial actions, including the establishment of alternative resolution systems, arbitration, courts and administrative procedure.
8. Establish and maintain systems for the licensing of businesses, professions, and other activities within the Township.

9. Establish such offices, departments, boards, committees or commissions and personnel positions as deemed necessary; prescribe the duties and compensation of all employees and officers of the Township and adopt personnel policies and procedures to regulate hiring, supervision, discipline, termination and work place activities. The KTC may appoint from time to time, officers and agents of the Township whose appointment is not provided for in this chapter, and remove them.
10. Construct, purchase or lease necessary buildings and offices for the benefit of the Township.
11. Prescribe a daily compensation, stipend or salary to be paid the Commissioners and administrative board or committee members for the performance of official duties.
12. Prescribe per diem, stipend or reimbursement for expenses incurred on official business, including necessary travel expenses, meals and mileage.

History

KTC __-__-05 (__, 2005)

Cross Reference

Election Ordinance enacted by KTCO-37-03 (Oct. 26, 2003); codified at Chapter 4.

Section 1-107 Commission meetings; quorum; parliamentary procedures; open meetings

- A. The KTC shall meet in regular session every month. The KTC, by majority vote, shall fix the time and place of such meeting. The proposed agenda for KTC meetings shall be developed by the Chairperson of the KTC, upon consultation with the Town Manager.
- B. The Chairperson may convene special meetings as necessary to carry out the official duties of the KTC and the Township, subject to availability of funds in the annual operating budget. The Town Manager shall give notice of each special meeting by personal delivery, telephone, telecom or mail to each commissioner.
- C. A simple majority of the commissioners shall constitute a quorum for transacting business, unless otherwise specifically prescribed by ordinance, rule or regulation.
- D. The KTC shall, by resolution, prescribe the parliamentary procedures for the government of its proceeding.
- E. Except for executive sessions as prescribed by written parliamentary procedures, the meetings of the KTC shall be public.
- F. The proposed agenda and all proposed resolutions with attached exhibits and supporting materials shall, as conditions precedent to consideration by the KTC, be:

- A. The KTC, by resolution, shall from time to time establish an organizational chart depicting all offices, departments, boards, commissions, enterprises and authorities; this chart shall serve as the official structure of the Township government. The organization chart shall be reviewed, and amended if deemed necessary, during the annual budget process.
- B. The KTC, by resolution, shall approve the job description and qualifications for all department directors and for the Town Manager. The job description and qualifications of all department employees, and any amendments thereto, shall be developed in consultation with the department directors. The department directors shall supervise and control their departments, subject to the general control and direction of the Town Manager.
- C. All positions (the Town Manager, department directors and department employees) shall be publicly advertised. The department directors and the Town Manager shall interview and screen applicants for department director positions and department employee positions.
- D. Unless otherwise declared by ordinance or duly approved rules and regulations, all department directors and department employees shall be hired for an indefinite term, after a probationary period, and shall not be subject to removal except for cause in the manner prescribed by the Township Personnel Policies and Procedures.
- E. The KTC, by a written employment contract and for a specified term, shall appoint a Town Manager to be the chief executive officer serving at the pleasure ("at will") of the KTC.
- F. Unless otherwise declared by ordinance or duly approved rules and regulations, the Town Manager shall have full authority to hire, discipline and terminate the employment of all department directors and department employees in the manner prescribed by the Township Personnel Policies and Procedures.

History

KTC __-05 (__, 2005)

Cross Reference

Resolution KTCD-68-04 (Dec. 13, 2004) established an organization chart.

Resolution KTCD-72-04 (Dec. 26, 2004) approved the Job Description/Qualifications for Office of Town Manager.

Section 1-110 Referendum; Initiative

- A. The laws pertaining to referendum and initiative, as set out in Title 11, Chapter 2 of the Navajo Nation Code, in particular sections 401, 402(B), 402(C)(2), 403(B), 404, 405, 406, 407, 408, 409(A) and 409(C), as amended by Resolution CMY-30-03, are hereby adopted as the referendum and initiative laws for the Township as if such sections were fully set forth herein and are hereby incorporated by reference thereto.

1. Reviewed by Legal Counsel and the Finance Manager prior to submittal to the KTC; these officials shall indicate what impact, if any, the proposal will have on the Township and make recommendations to the KTC; and
 2. Distributed to each Commissioner at least four days prior to the meeting.
- G. The minutes of each meeting shall be prepared within seven days after the meeting and distributed to each Commissioner.
- H. All approved resolutions shall be signed by the Commissioner who presided at the meeting or his or her designee.

History

KTC __-__-05 (__, 2005)

Cross Reference

Resolution KTCJA-02-02 (Jan. 20, 2004) adopted "Rules of Order" for KTC meetings.

Section 1-108 Commission Officers

- A. Officers of the KTC shall consist of the Chairperson, Vice-Chairperson and Secretary elected from, and by the Commissioners.
- B. The officers shall have the following duties and such other duties as may be determined by the KTC:
1. The Chairperson shall preside at all meetings and shall perform all duties incident to the office of the Chairperson
 2. The Vice-Chairperson shall act in the capacity of Chairperson in the absence of the Chairperson, and shall discharge any other duties designated by the Chairperson.
 3. The Secretary is the recording officer of the KTC and the custodian of its records and as such shall keep a journal of KTC proceedings and a record of all ordinances and resolutions adopted. The Secretary shall ensure that an electronic recording be made of all KTC meetings and she/he shall ensure that written minutes be timely prepared and kept of all KTC meetings.
- C. The officers shall be elected for two years or as soon as newly elected commissioners are sworn in.

History

KTC __-__-05 (__, 2005)

Section 1-109 Government Structure; Town Manager, Directors; Employees

1. The adoption of these particular sections of Title 11 shall mean that wherever the word "chapter" appears, the word "Township" shall be substituted, it being the intent of the KTC that the Township shall cooperate and coordinate with the Navajo Nation Election Administration the conduct of referendum and initiative elections in the same way that chapter elections are conducted.
 2. The Navajo Nations laws cited above shall be kept on file in the Office of the Records Manager at all times for public inspection.
 3. The Township attorney shall conduct an independent analysis of and recommend language for all referendum and initiative measures, including the drafting of the summary and statement of legal effect of the proposed referendum or initiative measure.
- B. The KTC shall submit to the registered voters of the Township any measure calling for the issuance of bonds. The KTC shall have the discretion whether to enact an ordinance or rule pertaining to the other measures listed in 11 N.N.C. § 401(B) or to refer it the Township registered voters.

Section 1-111 Seal [RESERVED]

Section 1-112 Severability

For purposes of this entire Code and unless otherwise specified by law, the provisions of this Code or any ordinance therein are severable and if any provision of this Code or ordinance, or its application to any person or circumstance is held invalid by a final unappealable judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Code or ordinance or its applicability to any other person or in any other circumstance.

History

KTC__-05 (__, 2005)

Chapter 2. Referendum/Initiative

SECTION

- 401. Referendum/initiative matters, exemptions
- 402. General
- 403. Referendum measures referred by the Navajo Nation Council and Chapters
- 404. ~~Referendum measures not referred by the Navajo Nation Council and the Chapters~~ Initiatives by petition of registered voters
- 405. Notice ~~by publication~~ of election of on a referendum measure or initiative
- 406. Vote required.
- 407. ~~Ballots; explanatory materials~~ Form of ballot
- 408. Conduct of elections
- 409. Effect of referendum/initiative elections

§ 401. Referendum/initiative matters, exemptions

- A. The referendum/initiative procedure which is provided for herein shall apply to matters which are strictly legislative and shall not include matters administrative or executive. Laws preserving peace, public health or safety and any laws determined and declared by the Navajo Nation Council to be of emergency nature shall be excluded from the referendum/initiative process. Yearly appropriations for a fiscal year budget shall also be exempt from the referendum/initiative process.
- B. Use of trust funds, issuance of bonds, acquisition of property, acquisition of public utilities, the granting, extension, or enlargement of public utility franchise and rate regulation, tax measures against the Navajo Public for support of the government and public institutions, and ordinances or comprehensive plans for zoning shall not be exempted from the referendum/initiative process.

§ 402. General

- A. Referendum measures may be referred to the people by the Navajo Nation Council where the Council determines by resolution that the people should decide the referendum measure by resolution.
- B. Referendum measures may be referred by a Chapter Resolution to the registered voters of the Chapter within that Chapter Area. Such measure must affect that Chapter only.
- C. ~~Referendum measures~~ Initiatives may be placed on a ballot pursuant to by petitions by of the registered voters.
 - 1. ~~The general public~~ Registered voters may petition to place a referendum measure Navajo Nation initiative on a the ballot at of a

general or special election.

2. Registered voters of a particular chapter may petition to place a chapter referendum measure initiative on ~~a~~ the ballot ~~at a~~ of that particular chapter's chapter election or a special chapter election called specifically for an election on the measure initiative.
- ~~3. Where a referendum measure is requested pursuant to subsections (A) and (B) above, petition filing and circulation shall be in compliance with §403.~~
- D. A referendum measure/initiative cannot be legally adopted except in conformity with the requirements of the Election Code set forth herein.

§ 403. Referendum measures referred by the Navajo Nation Council and Chapters

- A. The Navajo Nation Council shall, by resolution, refer a referendum measure for public vote ~~by resolution~~. The resolution shall place timelines for the election which shall be held at the next regularly scheduled Navajo Nation election (primary, general or Navajo Nation-wide chapter election) if such election is scheduled no sooner than 60 days following the adoption of the resolution OR at a special election to be held no sooner than 30 60 days and not later than 60 90 days from the date of the passage of the resolution referring the enactment. The resolution shall provide the language to be placed on the ballot in accordance with 11 N.N.C. § 407(A). Where the language is not clear, the Board of Election Supervisors shall, by resolution, amend the language for clarification purposes only, with language provided or recommended by the Office of Legislative Counsel and the Office of the Attorney General. The Board shall also review the measure to ensure that the measure is not exempt pursuant to §401. The Council shall direct that funding be identified and made available to conduct an the election.
- B. A chapter may by resolution refer a measure for vote of registered voters within the chapter(s) which fall within the scope of the measure. The resolution shall place timelines on the election of the measure to be which shall be at the next regularly scheduled chapter election if such election is scheduled no sooner than 60 days following adoption of the resolution OR at a special chapter election to be held no sooner than 30 60 days and no later than 60 90 days from the date of the passage of the resolution referring the enactment. The resolution shall provide the language to be placed on the ballot in accordance with 11 N.N.C. § 407(A). Where the language is not clear, the Board of Election Supervisors shall, by resolution, amend the language for clarification purposes only, with language provided or recommended by the Office of Legislative Counsel and the Office of the Attorney General. The Board shall also review the measure to ensure that it is not exempt pursuant to §401. The chapter shall make funding available to conduct ~~an~~ the election.

- C. Where a resolution refers to a future referendum election based upon a specific event, the Navajo Nation Council shall upon a foreseen or planned event refer the measure by resolution.

§ 404. ~~Referendum measures not referred by the Navajo Nation Council and the Chapters~~ Initiatives by petition of registered voters

A. Registered voters may petition to place an referendum measure initiative on a Navajo Nation general or special election ballot where the scope of the referendum initiative affects the entire Navajo Nation and is not limited to a chapter or chapters. Registered voters may petition to place an referendum measure initiative on a chapter or special chapter election ballot where the measure's initiative's scope is limited to the chapter or chapters. An initiative election shall be at the next regularly scheduled Navajo Nation or chapter election if scheduled no sooner than 60 days from the date of the Board's final certification of the initiative petition OR at a special initiative election to be held no sooner than 60 days and not later than 120 days from the date of the Board's final certification of the initiative petition, subject to the conditions on special initiative elections set forth herein.

1. Where the registered voters, through a Petition Committee, seek to conduct an initiative election as a special election, independent of any regularly scheduled Navajo Nation or chapter election, the Petition Committee shall provide the Election Administration with a non-refundable cashier's check in the amount of \$500, in the case of a chapter initiative, or \$2,500, in the case of a Navajo Nation initiative, to cover costs of conducting the special initiative election. The non-refundable cashier's check shall be provided to the Election Administration just prior to final certification of the petition and prior to the election being called by the Board of Election Supervisors pursuant to 11 N.N.C. § 404(B)(14)(c). The Election Administration shall deposit the cashier's check with the Navajo Nation Controller.
2. The Board of Election Supervisors shall not certify any petition nor call for any special initiative election where the Petition Committee fails or refuses to provide the special initiative election funds required by 11 N.N.C. §404(A)(1).
3. Funds received by the Petition Committee to cover costs of conducting a special initiative election are subject to the restrictions on contributions by corporations and nonmembers of the Navajo Nation set forth at 11 N.N.C. § 209.
4. Each Petition Committee whose initiative appears upon the official ballot in any special initiative election shall, not more than 30 days after the initiative election, file with the Election Administration a sworn and signed itemized statement of receipts in a similar manner to that set forth for candidate expenses in 11 N.N.C. § 202.

5. Legislation adopted by a successful special initiative election shall not take effect until the statement of receipts required by 11 N.N.C. § 404(A)(4) is filed.

B. Petition requirements are as follows:

1. Any qualified eligible registered voter may petition for an election on an referendum measure initiative consistent with provisions herein.
2. A Petition Committee shall designate itself to draft, circulate, and file the petition. A listing of the name, address, chapter registration, and census number of each member of the Petition Committee and its designated representative shall be filed with the Election Administration prior to circulation of the petition. Only this Committee shall have the power to withdraw the petition.
3. A copy of the petition shall be filed with the Election Administration office before it is circulated for signatures.
4. This filed copy shall be verified by the petitioners Petition Committee that the language is the form of language to be used in the petitions thereafter circulated and the Election Administration shall review the scope of the measure initiative to determine whether it is exempt from the referendum/initiative process pursuant to 11 N.N.C. § 401.
5. Before the petition is circulated for signatures, the Election Administration shall review the petition for sufficiency. Petitions shall be found sufficient where:
 - a. Each petition page has the official title of the measure initiative and a summary of the nature and purpose of the measure initiative proposed.
 - b. The petition has attached the full text of the measure initiative proposed so signers may read the contents. The Election Administration shall notify the filing party that each petition circulated for signature shall have said attachment;
 - c. Each petition page is numbered;
 - d. Each page of the petition states a warning clause "liability may be incurred by unauthorized signing"; and
 - e. Each petition must require of the signer, name (in printed form), chapter, census number, or social security number, and date.
6. Each proposed measure initiative must be submitted to the voters as an individual proposal, and two Two or more proposals addressing separate and distinct legislation shall may not be joined in the same a single petition. A single referendum petition shall not be filed addressing two or more separate and distinct laws.
7. The filing parties Petition Committee shall be informed that, for verification purposes, petitions must be kept separate according to the five agencies when the referendum measure initiative is to be

- addressed to the whole Navajo Nation.
8. The Election Administration Office shall inform the ~~filing parties~~ Petition Committee of requirements set forth above.
 9. The circulator upon obtaining signatures shall verify by making an oath and subscribing on each page that the signature, mark, or thumbprint obtained are the genuine signature, mark or thumbprint of the person whose name it purports to be and that he or she in fact has witnessed the execution of all the signatures on the page of the petition.
 10. Those signatories who cannot write their names shall place their mark or thumbprint in the appropriate place and it shall be signed by a witness who shall also sign his/her name and state, chapter registration and census number or social security number.
 11. Thirty Fifteen percent of qualified all eligible registered voters shall have signed the petition for an referendum measure initiative to be placed on a ballot. For purposes of determining the fifteen percent signature requirement, the total number of eligible registered voters shall be the official number of registered voters, Navajo Nation-wide or for the particular chapter if a chapter initiative, as of the date the petition is first submitted to the Navajo Election Administration.
 12. Filing requirements:
 - a. Petitions for the ~~referendum measures~~ initiative to be voted upon shall be filed no later than 60 90 days before the scheduled election. Filing shall be at the Election Administration office.
 - b. Where the petition is in response to an enactment by the Navajo Nation Council, petitions shall be filed no sooner than 30 days after enactment and no later than 60 90 days before the election.
 - c. A petition must be filed with the Election Administration within 180 days of the date of the Election Administration's determination that the petition was sufficient for circulation pursuant to 11 N.N.C. § 404(B)(3), (4) and (5).
 - e d. Once the petition is filed with the Election Office Administration, it may not be removed or withdrawn for the purpose of adding or changing information. Petitions removed after filing with the Election Office Administration shall be rejected.
 13. Verification; certification of sufficiency
 - a. When a petition is filed, the Election Administration Office shall stamp it indicating its receipt, time and a date of receipt, name of person who filed it, names of Petition Committee members and name of official who received it. Once filed and stamped,

language and content shall not be changed.

- b. The Election Administration staff shall examine, verify and certify the petitions as sufficient before ordering an election. Petitions shall be examined to determine sufficiency as to:

- (1) Name;
- (2) Address;
- (3) Chapter;
- (4) Census number or social security number;
- ~~(5) Social security number;~~
- ~~(6) (5) Registration of voters;~~
- ~~(7) (6) Authenticity of signatures;~~
- ~~(8) (7) Witnessing of marks and thumbprint; and~~
- ~~(9) (8) Whether the requisite number of qualified electors eligible registered voters signed the petition pursuant to §404(B)(11).~~

- c. If, within 10 days after the filing, the petition is determined insufficient by the Navajo Election Administration, the examining officers shall set forth reasons for insufficiencies. ~~The petitioning parties~~ Petition Committee representative will be notified by letter within 5 days of the determination. A hearing shall be granted to determine the validity or sufficiency only if the ~~petitioning parties~~ Petition Committee request a hearing in writing with the Office of Hearings and Appeals within ten (10) days of the Election Administration's determination. The Office of Hearings and Appeals shall set a hearing date to take place within a reasonable time.

- d. Upon receipt of a request for hearing and upon a scheduling of a hearing date, all parties shall be notified.

- e. The Office of Hearings and Appeals shall have the authority to call witnesses and inquire into the facts to determine authenticity of signatures. Power to call a witness shall include power to subpoena.

- f. Notice of Appeal by either party may be made to the Supreme Court within 10 days of a final decision or order issued by the Office of Hearings and Appeals. Review by the Supreme Court is limited to whether or not the decision of the Office of Hearings and Appeals is sustained by sufficient evidence on the record.

14. Petitions determined valid and sufficient; objections and protests.

- a. Once filed, the Navajo Election Administration shall hold the petition for 10 days. If no objections or protests are made within these 10 days, the Election Administration shall certify the petition as sufficient.

- b. Objections or protests against a petition determined valid and sufficient are allowed under the following conditions:
- (1) The protesting or objecting party or parties must be eligible registered voters.
 - (2) Protests and objections must address only the validity and sufficiency of the petitions.
 - (3) Protesting or objecting parties who question the content of the measure, or merely believe measure to be unwise or difficult to execute shall not be allowed a hearing.
 - (4) The protest shall be verified.
 - (5) The protest shall be filed with the Office of Hearings and Appeals within 10 days of the Election Administration's determination. A hearing shall be requested by the protesting party.
 - (6) Notices shall be given to all parties involved immediately by parties objecting or protesting parties.
 - (7) Notice of Appeal by either party may be made to the Supreme Court within 10 days. Review is limited to whether or not the decision of the Office of Hearings and Appeals is sustained by sufficient evidence on the record.
- c. Upon final certification of a petition, the initiative election shall be called by the Board of Election Supervisors.

§ 405. Notice by ~~publication~~ of election of on a referendum measure or initiative

- A. Once an election is set for a referendum measure/initiative, notice shall be published by the Navajo Election Administration.
- B. The notice shall contain ~~an objective and unbiased statement concerning the proposed measure~~ the date of the election, the official title, descriptive summary and brief statement of legal effect of the proposed referendum measure or initiative as it will appear on the ballot pursuant to 11 N.N.C. § 407(A). The notice shall also indicate that copies of the complete text of the referendum measure or initiative are available for inspection or purchase (duplication cost only) at the Navajo Election Administration office.
- C. Notice is sufficient if published at least once for two successive weeks in a newspaper of reservation wide distribution. The Election Administration may provide other notice as appropriate.

§ 406. Vote required

- A. The measure/initiative shall pass if a majority, or other identified amount greater than a majority, of all qualified eligible registered voters who cast a

vote, vote for the proposed measure/initiative. Qualified Eligible registered voters within this section are not limited to qualified voters who voted in the last election. Only registered voters of the particular chapter conducting a chapter election or special chapter election are eligible to vote on a referendum measure or initiative on that chapter ballot.

- B. A resolution or enactment petition may shall specifically state the that the referendum or initiative must be passed by a majority or otherwise other identified amount greater than a majority.

§ 407. Ballots, explanatory materials Form of ballot

~~The Navajo Board of Election Supervisors shall prepare the title and summary of each proposed referendum measure as follows:~~

~~A. The title of the referendum measure to be voted upon shall be the same as the title referred by the Navajo Nation Council or Chapter or the title in the petition signed by the electors pursuant to §404(B) (4) and (5) (a).~~

~~B. A summary or description of the proposed referendum shall follow the title which shall include a true and impartial statement of the purpose of the measure.~~

~~C. Dispute of a title or summary may be determined by judicial review. Where found insufficient, a satisfactory title or summary may be prepared by the Courts. Review is limited to the decision of whether or not the Board is sustained by sufficient evidence on the record.~~

~~D. A complete text of the proposed measure shall be included by the Navajo Board of Election Supervisors if so required.~~

A. The Navajo Board of Election Supervisors shall prepare the official ballot for a referendum or initiative election in the following manner:

1. The official title of the referendum measure or initiative shall be printed on the official ballot. The official title of the referendum measure to be voted upon shall be the same as the title referred by the Navajo Nation Council or chapter. The official title of the initiative to be voted upon shall be the same as the title on the petition signed by the registered voters as set forth in 11 N.N.C. § 404(B)(5)(a).
2. A descriptive summary of the referendum measure or initiative shall be prepared by the Board of Election Supervisors, upon the recommendation of the Office of Legislative Counsel and the Office of the Attorney General, and printed on the official ballot following the official title. The descriptive summary shall provide the registered voters with an objective and unbiased statement of the purpose and principal provisions of the referendum measure or initiative to be voted on.
3. Following the official title and descriptive summary of the referendum measure or initiative, a brief statement of legal effect shall be printed on the ballot. A brief statement of legal effect shall, in a brief and

objective phrase, explain the resulting effect a "yes" or "for" and "no" or "against" vote will have on existing law should the measure/initiative receive a majority of votes cast in that particular manner. The brief statement of legal effect shall be prepared by the Office of Legislative Counsel and the Office of the Attorney General and appear on the ballot as follows:

A "YES" (or "FOR") vote shall have the effect of _____.

A "NO" (or "AGAINST") vote shall have the effect of _____.

4. Below the brief statement of legal effect there shall be printed on the ballot the corresponding words "YES" or "FOR" and "NO" or "AGAINST", as may be appropriate, and a place for the voter to put a mark indicating his/her preference.
 5. The Navajo Board of Election Supervisors shall have the final approval authority over the wording of the official title, the descriptive summary and the brief statement of legal effect of the referendum or initiative measures.
- B. A minimum of four copies of the complete text of the legislation proposed by the referendum measure or initiative shall be made available in each polling place for the voters to review. Each voter shall be informed by the poll judges and clerks at each polling place that copies of the complete text are available to review in the polling place.
- C. Dispute of an official title, descriptive summary or brief statement of legal effect may be determined by hearing before the Office of Hearings and Appeals, pursuant to 11 N.N.C. § 341.

§ 408. Conduct of elections

- A. Polling place supervision; appeal by persons not allowed to vote.
 1. Before the date of an election, the Chairmanperson of the Board shall call in all chief poll judges for necessary instructions, swearing in, and transport of ballot boxes and voting machines to the polling places for each election community.
 2. The poll judges shall guard the polls, maintain order, and instruct voters in the techniques of balloting. The poll clerks shall enter each voter in the poll books and issue ballots.
 3. One of the poll judges for each polling place shall be designated by the Board as the chief poll judge for his or her polling place, and it shall be his or her duty and responsibility to keep custody of the account for all ballots, the ballot box and the poll books and he or she shall supervise and have supervisory authority over the other

judges and poll clerks in guarding the polls, maintaining order and instructing voters.

4. A voter must vote at the polling place where he or she is registered to vote.
 5. Any person who is not allowed to vote may appeal to the Board immediately, whose decision shall be final.
 6. There shall be a member of the Navajo Nation Police present at each polling place during voting hours.
- B. Voting shall begin at 8:00 a.m. and shall end at 7:00 p.m. All voters present at the poll places and in line to vote at 7:00 p.m. will be allowed to vote.
- C. Counting of votes. At the close of the election, the election judges at each polling place shall tabulate the results of the balloting, seal and lock the ballots, boxes with the poll books and keys in the ballot boxes, and transmit the results of the balloting to the Election Administration at Window Rock by telephone or radio communication. A poll watcher will be allowed at all times during the balloting and during the counting of the votes.
- D. Canvass of votes; recount.
1. Sealed ballot boxes containing all of the ballots cast in the election, all unused or spoiled ballots, data packs, keys, a written statement of the election results on a form provided by the Board and certified by the poll judges at each polling place, and the list of registered voters shall be forwarded to the Election Administration at Window Rock by the chief poll judge.
 2. The Board shall canvass the written statements of election results from each polling place and shall then total the election results.
 3. No recount of ballots of any polling place shall be made unless within 10 days after the election, a registered voter who voted on the referendum/initiative objects and the Board sees sufficient reason to recount the election results. The Board may, on its own initiative, conduct a recount of the votes of any polling place if it is believed that there may have been substantial irregularity in the voting or counting of the ballots. The Board may use the chief poll judge to assist in canvassing and recounting ballots.
- E. Certification of election. Not less than 10 days following an election, the Board shall certify the election results.
- F. Appeal of disputed elections.
1. A disputed election shall be appealed in writing within 10 calendar days following the election to the Office of Hearings and Appeals by a qualified eligible registered voter who voted in the referendum/initiative election.
 2. The Office of Hearings and Appeals shall issue rules and regulations for the determination of how such disputes shall be handled, and shall, pursuant to such rules and regulations, issue a decision

- upholding or vacating the disputed election.
3. A decision of the Office of Hearings and Appeals sustaining or vacating a disputed election may be appealed within 10 calendar days to the Supreme Court of the Navajo Nation. The scope of review is limited to whether the Office of Hearings and Appeals' decision is sustained by sufficient evidence on the record.

§ 409. Effect of referendum/initiative elections

- A. The vote on a referendum/initiative election shall be binding and have the effect of law.
- B. Legislation adopted by a referendum/initiative election shall be incorporated in, and published as a part of the Navajo Nation Code, or any successor to the Code.
- C. Legislation adopted by a referendum/initiative election shall be amended or repealed only:
 1. By the outcome of a vote on a subsequent referendum or initiative election concerning the same subject matter as that of the referendum/initiative which originally adopted the legislation; or
 2. For a Navajo Nation-wide referendum or initiative election, by 3/4 vote of the full membership of the Navajo Nation Council at a regular session of the Navajo Nation Council.