



## Mashpee Wampanoag Tribe

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### TRIBAL ORDINANCE

2016-ORD-014

### AMENDED AND RESTATED MASHPEE WAMPANOAG TRIBE ELECTION ORDINANCE

#### SECTION 1 - ELECTION COMMITTEE

- (A) Composition, Terms, and Officers. The Election Committee shall be composed of five (5) Tribal Members who shall be appointed for staggered terms by a majority vote of the Members of Tribal Council present at a meeting called for the purpose of making such appointments. The initial term and subsequent terms of Committee Members is governed by the Constitution of the Mashpee Wampanoag Tribe (the "Constitution"), Article IV, Section 4. The Committee may approve a system whereby the members may have their names drawn by lot which will determine the length of term for each member of the Committee. The members of the Committee shall elect their officers.
- (B) Duties. It shall be the duty of the Committee to conduct elections in compliance with the procedures described in this section and in particular:
- (1) To see that the name of each person offering to vote is on the official list of registered voters;
  - (2) To keep the ballot boxes sealed at all times except when ballots are being counted;
  - (3) To see that ballots are cast only by registered voters and the voting list is checked to indicate this;
  - (4) To begin to count the regularly cast ballots immediately after the close of the polls;
  - (5) To post and certify election returns;
  - (6) To return the following to the officer in charge:
    - (i) The ballots (in marked and sealed boxes);



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- (ii) All unused ballots; and
  - (iii) The completed Certificate of Results of Election.
- (7) The Election Committee officer in charge shall ensure that the ballots and other election material are kept in a secure storage facility among other Election Committee official records for at least one year. Within an appropriate time thereafter not to exceed 45 days, the Election Officer in charge shall forward the contents of the boxes and other related material to the archives of the Tribe.
- (8) To notify the Tribal Communications team of all certified candidates in order for the Tribal Communications team to coordinate candidates' access to the Mashpee Tribal E-Blast system for distribution of campaign material, not to exceed the truncated access capacity of words, and to filter out the email addresses for Tribal employees and address of mwtribe.com
- (C) Annual Balanced Budget Vote. Upon at least three (3) weeks notice from Tribal Council, it shall be the duty of the Election Committee to prepare for and to conduct the vote on the Annual Balanced Budget that shall occur on such date and time as designated by Tribal Council pursuant to Article VI, § 2.I. of the Constitution of the Mashpee Wampanoag Tribe in substantial compliance with the procedures described in subsection (2) of this Section.

### SECTION 2 - VOTER ELIGIBILITY & VOTER REGISTRATION

- (A) Voter Registration. Any enrolled Tribal member who will be at least eighteen (18) years of age on the date of an election may register to vote with the Election Committee prior to and on the date of an election either in person or by mail. If by mail, the member's completed official voter registration form must be received by the Election Committee before the date of an election. The Election Committee will make available official voter registration forms at the Tribal offices, on the Tribe's official website, and by mail or e-mail when requested by an enrolled Tribal member. Only registered voters at least eighteen (18) years of age will be entitled to vote.
- (B) Notice of Voter Registration. The Election Committee shall notify all Tribal members who will be at least eighteen (18) years of age on the date of an election that voter registration is required in order to vote in an upcoming election. For a regular election, the notice shall be provided at least sixty (60) days prior to the election by any reasonable means. For a special election, the notice shall be provided at least thirty (30) days prior to the election by any reasonable means.



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- (C) **Notice Records.** The Election Committee shall keep a record of all election notices provided to the Tribal public.
- (D) **List of Registered Voters.** The Election Committee shall request an official list of registered voters in alphabetical order from the Enrollment Department. It is the responsibility of the Enrollment Department to ensure the accuracy of the official list of registered voters. The list shall designate, where applicable, those Tribal members who will be at least eighteen (18) years of age on the date of an election and if they have registered to vote. A copy of the list shall be posted in a secure manner at the main Tribal office and at such other places as designated by the Election Committee at least 20 days prior to an election. It is the duty of Tribal members to review the list prior to an election and confirm his or her voter registration status.
- (E) **Notice of Election.** Not less than 30 nor more than 60 days notice shall be given by any reasonable means of the date of the regular election. Such notice shall include the location of where the results will be posted. The notice shall also advise that persons must be registered and enrolled if they intend to vote. A copy of any written election notice may be mailed to each registered voter and shall be posted at the main Tribal office and elsewhere as directed by the Election Committee. Provided, however, that not less than 30 days notice shall be given of the date of a special election and not less than 7 days notice shall be given of the date of a rescheduled election.

### SECTION 3 - CERTIFICATION OF CANDIDATES, NOMINATION PETITIONS, & BALLOT ORDER

- (A) **Certification of Candidates.** The Committee shall also be responsible for certifying the eligibility of candidates for Tribal Council Office according to the eligibility requirements specified in Article VI of the Constitution.
- (B) **Candidate Packets.** The Committee shall prepare, at a minimum, candidate packets that contain: (1) a candidate checklist; (2) a copy of Article IV, Elections of the Mashpee Wampanoag Tribe Constitution; (3) a copy of the Mashpee Wampanoag Tribe Election Ordinance, as amended; (4) a nomination petition; (5) a felony-free affidavit; (6) an immediate family affidavit; and (7) a criminal background check authorization form. The Election Committee shall make candidate packets available no later than the second Sunday of December at the Mashpee Wampanoag Tribal Community & Government Center.
- (C) **Nomination Petitions.** The nomination petitions within the candidate packets shall have the title of the office preprinted on the nomination petitions. No candidate seeking office shall be eligible to run for more than one office of Tribal Council. Any candidate who



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circulates and returns nomination petitions for more than one office shall be deemed ineligible to run for either office. Candidates shall circulate nomination petitions to obtain the signatures of at least twenty-five (25) enrolled Tribal members who are registered to vote and who must sign the petition in person unless under a physical disability or inability to read or write. In such case, the voter may authorize a third party to sign the petition in the presence of the registered voter.

- (D) Affidavits. The felony-free affidavit and immediate-family affidavit must be signed by each candidate before a notary. In the felony-free affidavit, each candidate must attest before a notary that candidate is free of any felony conviction for the preceding five years from the date of consideration of eligibility under penalties of perjury. In the immediate-family affidavit, each candidate must attest before a notary that candidate is not related as an immediate family member (i.e. mother, father, brother, sister, spouse, son or daughter) to more than one person serving on the Tribal Council under penalties of perjury.
- (E) Certificate of Attendance. In order to fulfill the eligibility requirements for candidacy, individuals are required to demonstrate their attendance at a minimum of six (6) Tribal Council or General Tribal Membership Meetings or a combination of those meetings within the 12 months preceding the Tribal General Election. "Meeting" means a regular, special or emergency Tribal Council meeting or a General Tribal Membership Meeting, but it shall not mean a regular or special election. "Month" means a calendar month (i.e. January to December). As such, for a regular and special Tribal Council election where candidates must turn in certificates of attendance by the second Sunday of January, candidates would have to show attendance at a minimum of six (6) meetings between January 1st to December 31<sup>st</sup> of the prior year.

Candidates shall demonstrate fulfillment of this requirement by obtaining from the General Tribal Membership Secretary and/or Tribal Council Secretary, a certificate which shall state the name and office the candidate is seeking; the number of meetings and the dates of such meetings attended which shall be signed by the second Sunday Secretary and/or Tribal Council secretary as a true copy attest. Candidates who fail to submit such certificates of attendance or whose certificates of attendance are insufficient in accordance with the provisions of Article VI of the Constitution shall be ineligible to run for Tribal Council Office unless such candidate later fulfills the requirements as a write-in candidate.

Write-in candidates shall comply with the demonstration of attendance requirement by submitting the certificate of attendance on or before the Friday immediately preceding the election and shall be subject to the same requirements as persons whose names are on the official ballot. A person who fails to meet eligibility requirements shall not have his/her ballots counted. A successful Write-In candidate's eligibility shall be determined by the



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Election Committee on the date of the election after ballots have been counted and polls are closed.

- (F) **Deadline for Candidate Packet and Certificate of Attendance.** The candidate packets and certificates of attendance shall be filed with the Election Committee no later than 2:00 p.m. (ET) on the second Sunday of January.
- (G) **Election Committee Certification of Candidates.** The Election Committee is responsible for certifying that all candidates are eligible to serve on the Tribal Council. In order to certify the eligibility of candidates, the Election Committee shall: (1) verify the names of registered voters whose name appears on the Nomination Petitions against the voter registration list; (2) certify that each candidate has submitted a complete Candidate packet; (3) certify that each candidate has submitted the requisite Certificate of Attendance; and (4) ensure that a criminal background check is conducted on each candidate to verify the felony-free affidavit. With the exception of the completion of a criminal background check on each candidate, the Election Committee shall complete preliminary certification of candidates by 4:00 p.m. (ET) on the date the Candidate Packets and Certificates of Attendance are due, provided such preliminary certification is contingent on the candidates' criminal background checks to verify their felony-free affidavits. The criminal background checks must be completed by the following Wednesday at 5:00 p.m. (ET).
- (H) **Order of Names on Ballot.** After certifying the eligibility of candidates, the Committee shall then draw names of candidates by lot to determine the ballot order in which those names shall appear for the Officers and Members of the Tribal Council. In an election year that includes Officers of the Tribal Council, the ballot order shall be: Chairperson, Vice Chairperson, Secretary, Treasurer, and Member.
- (I) **Certified Candidate Posting and Notice.** The Committee after certifying candidates shall immediately post the names of all candidates together with the offices they seek at the Mashpee Wampanoag Tribal Community & Government Center. By the following calendar day, notice shall also be provided through the Mashpee Tribal E-Blast and Tribal website. Within five (5) days from the last date candidate background checks are completed, the Committee shall cause letters to be sent by certified mail to all individuals that submitted Candidate Packets by the deadline advising them whether or not: (1) their Candidate Packet is complete; (2) their Nomination Petition is deemed valid; (3) their Certificate of Attendance demonstrates attendance at the requisite number of meetings; (4) their criminal background check is free of any felony conviction for the preceding five years from the date of consideration of eligibility; and (5) they will be placed on the ballot.



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- (J) **Challenges to Certified Candidate.** Certification of a candidate may be challenged by a Tribal registered voter based only on ineligibility to run for Tribal Council under Article VI, Section 1(b) of the Constitution. Such person challenging the eligibility of a candidate must provide a written statement of those facts known to the person that lead that person to believe the candidate is ineligible to serve on Tribal Council under Article VI, Section 1(b) of the Constitution. A person challenging the eligibility of a candidate must provide documentary evidence to support the statement or the challenge will be rejected without consideration by the Election Committee. "Documentary evidence" shall include written documents, photographs, videos, sound recordings, and printed e-mails or web pages. All challenges of a candidate's certification must be hand delivered to a member of the Election Committee by the following Wednesday by 5:00 p.m. (ET) at the Mashpee Wampanoag Tribal Community & Government Center, 483 Great Neck Rd South, Mashpee, MA, 02649, after the Election Committee has posted the certification of candidates in the Mashpee Wampanoag Tribal Community & Government Center. No challenges will be accepted after the 5:00 p.m. (ET) deadline. Failure to meet the 5:00 p.m. deadline cannot be challenged before the Election Committee or Tribal Court. Upon receiving a challenge that satisfies all of the aforementioned requirements, including deadlines, the Election Committee will provide reasonably expedient notice by personal delivery or by email with return-receipt requested to the candidate whose candidacy has been challenged with a copy of the challenge attached. The candidate shall provide the Election Committee a response to the challenge within three (3) days. The Election Committee will investigate and thereafter make a decision on the challenge to candidacy within seven (7) days of receiving the challenge. Both the challenged candidate and challenger shall receive reasonably expedient notice of the Election Committee's decision. The decision of the Election Committee on challenges to the certification of a candidate shall be provided by personal delivery or by email with return-receipt requested, and shall be final and may be appealed by the candidate or challenger in person to the Supreme Court of the Mashpee Wampanoag Tribe no later than twenty-four (24) hours from receipt of the Election Committee's decision. The Election Committee shall have twenty-four (24) hours thereafter to respond. The Supreme Court shall have original jurisdiction to hear such appeal pursuant to Chapter 2, Section 2(c)(3), 2008-ORD-002, Mashpee Wampanoag Tribal Judiciary. The Supreme Court shall hear and render a decision within five (5) calendar days.



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### SECTION 4 – ELECTION

- (A) **Date of Regular Election.** The date for a regular election shall be the second Sunday of February.
- (B) **Postponement of Election.** In the event the Election Committee determines, in its discretion, that a regular or special election must be postponed due to an emergency, severe weather event, or other act of god or nature, the Election Committee shall:
- (1) Declare a postponement of the election;
  - (2) Immediately notify Tribal Council and the candidates and, as soon as is practicable, notify the Tribal membership of the postponement and the reason therefore;
  - (3) Reschedule the election for a date and location not less than 7 days nor more than 30 days from the originally-scheduled date of the election;
  - (4) Ensure that Tribal Council, the candidates and the Tribal membership have at least 7 days notice of the rescheduled date and location of the election;
  - (5) Conduct the rescheduled election in conformance with the provisions of this Ordinance; and

Provided, further, that in the event the Election Committee determines, in its discretion, that a rescheduled election must be postponed due to an emergency, severe weather, or other act of god or nature, the Election Committee shall again postpone and reschedule the election according to the provisions of this Section 4(B).

- (C) **Handling of Immediate Family Papers.** A Committee member shall not handle completed Candidate Packet papers for certification of an immediate family member (i.e. mother, father, brother, sister, spouse, son or daughter) as a candidate in the election.

### SECTION 5 - FIRST ELECTION, STAGGERED ELECTIONS

- (A) **First Election.** At the first election the Offices of Tribal Council Chairperson, Vice Chairperson, Secretary, Treasurer and one of the five vacancies on the Tribal Council which would have occurred for that election shall be filled for four years. The office of Historian is abolished and shall not be filled in accordance with Article VI Section 1(a). The Committee shall recommend to the Council for subsequent elections of Offices &



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Members for staggered terms. Elections shall be held every two years on odd numbered years.

- (B) **Staggered Elections.** The three candidates receiving the highest number of votes of the three vacancies occurring in 2005 shall be filled respectively for a four year term and two, two year terms. The terms of those two tribal council members, elected to a two year term, shall then be filled at an election for a four year term to be held in 2007. The remaining four Tribal Council Members whose terms expire in 2006 shall then be filled at an election held in 2006 for a four year term.

### SECTION 6 - PREPARATION OF BALLOTS

The Committee shall then cause ballots to be prepared which shall contain the Office and Names of Candidates for such Office or Officers and shall contain directions to voters concerning the maximum amount of votes which can be cast for said Office or Officers. The Election Committee shall recommend to the Tribal Council for its approval, on or before the October Council meetings, its selection of a voting method which method shall provide for a paper ballot which may be counted by a certified electronic scanner device. Such ballots shall accommodate a space for a write-in candidate or candidates on the ballot. Write-in candidates shall comply in every respect to the eligibility and qualifications contained in Article VI of the Constitution. In the event of a rescheduled election, the ballots printed for the originally-scheduled regular or special election may be used in the rescheduled election.

### SECTION 7 - VOTING, CONDUCT OF ELECTIONS

- (A) **No absentee or proxy.** Votes cast at regular or special elections must be cast in person at the time and place set by the Committee. No absentee proxy voting shall be allowed.
- (B) **Privacy of Voting.** The Committee shall prepare areas of privacy and a ballot box which shall ensure the privacy and secrecy of the casting of each ballot.
- (C) **Casting of Ballot Requirements.** Registered voters may vote, which shall be by secret ballot, by arriving at the polling place within the prescribed voting hours, telling the officials their names and addresses, providing federal, state or Mashpee Tribal government-issued photo identification, signing their signatures on the voting list, and marking and placing in the ballot box, tabulator or container the ballots which will be handed to them. During such hours, the Tribal Enrollment Department shall be open to allow registered voters to obtain their Mashpee Tribal government-issued photo identification.





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- (D) **Spoiled or Mutilated Ballots.** Should any voter spoil or mutilate a ballot in the course of voting at a poll, the voter shall destroy it in presence of the election officials and the election officials shall then make note of the destroyed ballot and furnish the voter with another ballot.
- (E) **Monitors.** The Committee shall have the authority to appoint monitors for the purpose of assisting voter registration and conduct of the election and those persons shall be responsible to the Committee. No person who is a candidate for such office shall be allowed to participate as a monitor at any regular or special election. The Committee shall initiate solicitation of monitors no later than sixty (60) days before the scheduled election. The Committee shall furnish its list of monitors to the Tribal Council no later than thirty (30) days before the scheduled election.
- (F) **Hours of Polls.** The polls shall open at 1:00 p.m. (ET) for elders and disabled persons only, then all voters may vote between the hours of 2:00 p.m. (ET) and 4:00 p.m. (ET). Any voter standing in line at 4:00 p.m. (ET) shall be permitted to vote and the Committee shall develop a procedure informing any voters who arrive late they may not vote.
- (G) **No campaigning, demonstrating or events.** There shall be no campaigning, demonstration or event taking place within one hundred (100) feet of the Mashpee Wampanoag Tribal Community & Government Center or other polling place during the times the polls are open.
- (H) **Closing the Polls.** As soon as the polling hours have ended, it shall be the duty of the Committee to remove the ballots from the sealed ballot box and then count the ballots in view of the candidates and tribal members. Candidates and tribal members shall have no communication with the counters of the ballots. Anyone interfering with the counting of the ballots shall be removed from the public area by Tribal security or Tribal police. The count shall not end until a result has been recorded and announced.

### SECTION 8 - COUNTING OF VOTES, CERTIFICATION, & RE-COUNT

- (A) **Recounts.** Any candidate after the results have been announced may object to the results of the count in writing, signed by the Candidate and hand delivered to a member of the Election Committee at the Mashpee Wampanoag Tribal Community & Government Center, 483 Great Neck Rd South, Mashpee, MA, 02649 no later than 5:00 p.m. (ET) the first Wednesday after the results have been announced. The Committee shall then determine the time and place for the recount which shall be held no later than one week after the election. The Election Committee shall inform in writing the person petitioning for a recount that he or she may bring one witness to observe the recount. The Committee shall also invite its legal counsel and a witness to observe the recount.



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- (B) **Security of Ballots.** The Committee shall be responsible for the security of said ballots.
- (C) **Certification of Results.** At the conclusion of the counting of the ballots at any election, the results shall be certified and be deemed final.
- (D) **Immediate Office Transition.** Newly-elected members and officers of the Tribal Council shall immediately hold their respective offices.
- (E) **Tie Vote.** In the event of a tie vote, the Election Committee shall conduct a duly noticed special election to determine the winner of the tie vote of the election. The position shall remain vacant until the vote is decided.

### SECTION 9 – JUDICIAL APPEAL

- (A) **Appeal of Election Irregularities.** Notwithstanding the foregoing in Section 8, any candidate shall appeal in writing any election irregularities in a Mashpee Wampanoag Tribal election to the Mashpee Wampanoag Tribal District Court no later than 5:00 p.m. (ET) the first Wednesday after the election following any Regular or Special Tribal election. The written complaint shall clearly state the irregularity and shall have attached any substantiating evidence. The Tribal District Court shall make an effort to hear and decide the case within thirty (30) calendar days of receiving the complaint. If needed, the Tribal District Court may extend the thirty (30) calendar day deadline.
- (B) **Tribal District Court Review.** If the Tribal District Court finds the complainant has established an irregularity it shall annul the election and require that a new one be conducted, unless such irregularity did not change the results of the election, in which case the Tribal District Court shall dismiss the appeal. If the Tribal District Court finds there is no irregularity it shall dismiss the appeal. The Tribal District Court's decision may be appealed to the Mashpee Wampanoag Tribal Supreme Court no later than 5:00 p.m. (ET) the next business day after the District Court's decision.
- (C) **Tribal Supreme Court Review.** The Mashpee Wampanoag Tribal Supreme Court shall cause a review and issue a final decision on the appeal within thirty (30) calendar days of the filing of the appeal.
- (D) **No Appeal for Annual Balanced Budget.** There shall be no right of appeal on the presentation and vote on the Annual Balanced Budget.



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### **Legislative history**

*Enacted June 9, 2005*

*Amended, January 13, 2010*

*Amended March 19, 2014*

*Amended November 21, 2016*




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**CERTIFICATION**

We, the undersigned Chairman and Secretary of the Tribal Council of the Mashpee Wampanoag Tribe hereby certify that the Tribal Council is composed of 13 members, of whom 9 constituting a quorum, were present at a regular meeting thereof, duly and regularly called, noticed, convened and held on the 21<sup>st</sup> day of November, 2016, and that the foregoing Ordinance was duly adopted by the affirmative vote of 8 members, with 0 opposing, and with 0 not voting.

DATED THIS 21<sup>st</sup> day of November, 2016.

  
Cedric Cromwell, CHAIRMAN  
Mashpee Wampanoag Tribal Council


ATTEST:

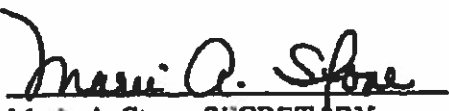
  
Marie A. Stone, SECRETARY  
Mashpee Wampanoag Tribe

**CERTIFICATION OF POSTING**

This is to certify that the Ordinance titled 2016-ORD-014, Amended and Restated Mashpee Wampanoag Tribe Election Ordinance, has been posted in accordance with 2009-ORD-003, Regulating Adoption, Amendment or Repeal of Ordinances and Resolutions.

DATED this 21<sup>st</sup> day of November, 2016.

  
Cedric Cromwell, CHAIRMAN  
Mashpee Wampanoag Tribal Council

  
Marie A. Stone, SECRETARY  
Mashpee Wampanoag Tribal Council  
Notary Public, Commission Expires 04-06-2016