



**RESOLUTION OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE
FORT APACHE INDIAN RESERVATION**

**(Authorizing the Posting of Proposed Ordinance No. 242, Adding
Chapter 18 to the White Mountain Apache Health & Safety Code)**

WHEREAS, on January 14, 2010, the Tribal Council passed *Resolution No. 01-2010-11* approving Consoni Hill's request to prepare McNary Town Park Rules and Regulations; and

WHEREAS, it was suggested that McNary Park be treated as a test area for the new rules and regulations, and if the rules are successful in McNary, they may later be applied to all Tribal parks; and

WHEREAS, the proposed rules and regulations for the McNary Park are set forth in Ordinance 242 attached hereto and, if enacted, will become Chapter Eighteen of the Health & Safety Code; and

WHEREAS, pursuant to Article XV of the Constitution of the White Mountain Apache Tribe, the proposed amendments shall be posted in each district for at least ten (10) days before final action by the Council; and

WHEREAS, the Tribal Council has reviewed proposed Ordinance No. 242 carefully, and considered the recommendations and the implications thereof in great detail and finds that adoption of proposed Ordinance No. 242 is in the best interest of the Tribe.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the proposed Ordinance 242, adding Chapter Eighteen to the Health & Safety Code, attached hereto, is hereby recommended for posting by the Tribal Council.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe, as follows:

1. The Tribal Council Secretary is hereby authorized and directed to post this resolution, Ordinance No. 242, in each district for at least ten (10) days before final action by the Council. In addition, notices of the proposed ordinance shall be sent in the form of a press release to KNNB-FM and the Apache Scout.
2. Any and all comments concerning Ordinance No. 242 proposed herein may be sent to the attention of the Tribal Council Secretary, White Mountain Apache Tribe, P. O. Box 700, Whiteriver, AZ 85941.

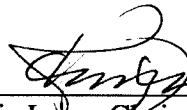
Resolution No. 04-2011-82
Ordinance No. 242

3. Upon completion of the posting period, the Tribal Council Secretary is further directed to submit proof of posting to the Tribal Council as well as the Legal Department and to report any public comments to the Tribal Council, and schedule a meeting thereof for final action.

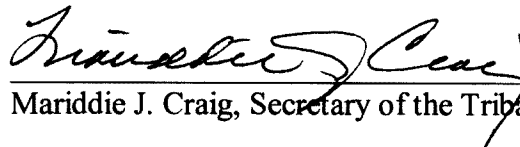
BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that in the event that this Resolution conflicts with a prior Resolution or Policy, this Resolution shall govern.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Chairman, or in his absence, the Vice Chairman, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution.

The foregoing resolution was on **APRIL 7, 2011** duly adopted by a vote of **NINE** for and **ZERO** against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article IV, Section 1 (a), (q), (s), (t), and (u) of the Constitution of the Tribe, ratified by the Tribe September 30, 1993, and approved by the Secretary of the Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).



Ronnie Lupe, Chairman of the Tribal Council



Mariddie J. Craig, Secretary of the Tribal Council

**ORDINANCE OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE
FORT APACHE INDIAN RESERVATION**

BE IT ENACTED BY THE COUNCIL OF THE WHITE MOUNTAIN APACHE TRIBE Ordinance No. 242, amending White Mountain Apache Health & Safety Code to add Chapter Eighteen, Town Parks as follows:

**CHAPTER EIGHTEEN
TOWN PARKS**

SECTION 18.1 STATEMENT OF PURPOSE

The purpose of this Chapter is to provide rules and regulations for the use of and conduct in the parks and recreation areas of the McNary Community (referred to as "Community Park" or "parks" in this Chapter.)

SECTION 18.2 APPLICABILITY

This Chapter shall apply in all parks and recreation areas within the McNary Community, unless expressly exempted. For the issuance of permits, authorizations, and the granting of approval for groups or other special uses of the community parks, the approving agency shall be the McNary Community Park Committee President, Vice President, Secretary, Treasurer and Member at Large.

SECTION 18.3 PARK HOURS

From November 1 through March 31 the Park hours are from official daylight to official sunset as defined by the National Weather Service. From April 1 through October 31 the Park hours are from official daylight to 10:00 p.m. From November 1 through March 31 no one is allowed in the park after official sunset; from April 1 through October 31 no one is allowed in the park after 10:00 p.m., except during a scheduled activity or event, or with a use permit from the McNary Community Park Committee President, Vice President, Secretary, Treasurer and Member at Large.

SECTION 18.4 RULES OF CONDUCT

The following rules of conduct shall apply to all users and persons who are within parks and recreation areas of the McNary Community.

A. Park use is available on a first-come, first-served basis except as scheduled for:

(1) **Leagues and Team Use.** Parks and recreation areas may be reserved for scheduled or "use permit" events. These events may include little league baseball, youth soccer leagues, adult recreation league events, and other scheduled team uses or uses by permit for non-tribal members.

(2) **Other Group Use.** All parties of one hundred (100) or more, wanting to use the McNary Community Park shall be required to submit an application and get a use permit from the McNary Community Park Committee President, Vice President, Secretary, Treasurer and Member at Large. The applicable fee(s) shall be paid at the time of application for non-tribal members.

(3) **Use of Ramadas.** A written application for a use permit to reserve a park ramada shall be made to the McNary Community Park Committee President, Vice President, Secretary, Treasurer and Member at Large on forms approved by the McNary Community. The applicable fee(s) shall be paid at the time of application for non-tribal members.

(4) **Special Events.** Refer to the Parks & Recreation Special Events Policy.

B. **Littering is Prohibited.** Each person or group is responsible for the cleanup of the area of the park which they use. Dumping of domestic or commercial trash also is prohibited. Domestic and commercial trash shall not be put into designated trash cans or containers, or otherwise left in parks. Where receptacles are not provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere.

C. **Child Supervision.** Children eight (8) years old and younger, must be supervised by an adult while playing on park playground equipment.

D. **Camping.** No overnight camping is allowed in the park. No overnight parking of recreational vehicles is allowed in the park.

E. **Fires.** No open fires or campfires are allowed in the park, except in the grills provided. Written requests for the use of other special fire containers shall be submitted to the McNary Community Park Committee, but may not be used without the written approval of the Community Park Committee. Fire restrictions issued by the Fire Department and Tribal Forestry to help prevent wildfires may prohibit all fires, including the use of park grills, from time to time.

F. **Firearms and Fireworks.** Possession, use or discharge of explosives, fireworks, firearms, rifles, pistols, revolvers, spring guns, B.B. guns, air guns, rockets, fireworks, slingshots, bows and other archery equipment or other similar weapons, arms or equipment is strictly prohibited in parks.

G. **Hunting.** Hunting, trapping, catching, wounding or killing, or treating cruelly, attempting to catch, wound or kill, any bird or animal, molest or rob any nest of any kind or any lair or burrow of any animal is prohibited. No person may hunt, molest, harm, frighten, kill, trap, pursue, chase, tease, shoot or throw missiles at any animal, wildlife, reptile or bird; nor shall he remove or have in his possession the young of any wild animal, or the eggs or nest, or young of any reptile or bird.

H. **Noise.** Excessive noise or other disturbance of the peace is not permitted.

I. **Dogs.** Dogs must be kept on a leash at all times in the park. Pets are subject to the Tribal Health & Safety Code, Chapter Ten.

J. **Glass Containers.** Glass containers including glass beverage bottles are not allowed in parks and recreation areas.

K. **Destroying Park Features.** Marking, tampering with, destroying, damaging, injuring, disfiguring, defacing, displacing, removing or disturbing any natural or man-made feature tree, shrub, wildflower, public building, sign, structure, equipment or other property is prohibited. No person may damage, cut, carve, mark, transplant or remove any plant, or injure the bark, or pick flowers or seed of any tree or plant, dig in or otherwise disturb grass areas, or in any other way injure the natural beauty or usefulness of any area.

L. **Pollution.** Throw, discharge, or otherwise place or cause to be placed in the waters of any fountains, pond, lake, stream or other body of water in or adjacent to any park or any tributary, stream, storm sewer, or drain flowing into such water, any substance, matter or thing, liquid or solid, which will or may result in the pollution of those waters.

M. **Attendance Fees.** Parks shall not be used for profit or gain. No admission fee, event fee, donation or other cost for attendance at an event held in parks may be charged, collected or paid by any person or entity without the express, written permission of the McNary Community Park Committee President, Vice President, Secretary, Treasurer and Member at Large.

N. **Restrooms.** All persons shall cooperate and shall maintain restrooms and washrooms in a neat and sanitary condition. No person over the age of five (5) years shall use the restrooms and washrooms designated for the opposite sex.

O. **Prohibited Areas.** No person shall enter an area posted as "Closed" or "Closed to the Public."

P. **Disorderly Conduct.** No person shall engage in threatening, abusive, insulting or indecent language or engage in any disorderly conduct or behavior tending to breach the public peace.

Q. **Displaying Permits.** Persons shall produce and exhibit any permit he or she claims to have, upon request of any authorized person who asks to inspect the same for the purpose of enforcing compliance with any ordinance, rule or regulation.

R. **Interference.** No person shall disturb or interfere unreasonably with any person or party occupying any park or recreation area.

S. **Use at Your Own Risk.** Use of the park, playground equipment or other equipment is "AT YOUR OWN RISK."

SECTION 18.5 VEHICLES

A. The maximum vehicle speed limit is fifteen (15) miles per hour.

B. No vehicles are allowed inside of the park except on designated roads and in designated parking areas.

C. No person shall leave a vehicle standing or parked in established parking areas or elsewhere in the park and recreation areas during hours when the park and recreation area is closed. During a snow storm and for three days thereafter established parking areas in parks and recreation areas may be utilized for automobile and light truck parking only, but not by motor homes, trailers, recreational vehicles, or other vehicles of any kind. *See 18.4 D. above.*

D. All-Terrain Vehicles ("ATVs") and other motorized off-road vehicles are not allowed in parks and shall not be used in parks unless such vehicle is licensed for street and road use by the Arizona Department of Motor Vehicles. Vehicles shall be operated only on paved roads, and shall be parked only in designated parking areas.

E. Parking is prohibited except in designated parking areas.

F. No vehicles are allowed to drive or park on the basketball courts at any time.

SECTION 18.6 ALCOHOLIC BEVERAGES

A. Only beer and wine are allowed in park areas which are not in use for league and team use. No alcoholic beverages may be sold in parks, except when allowed under a special event permit.

B. Individuals consuming alcoholic beverages must abide by State and Tribal laws, rules and regulations regarding alcohol consumption.

C. Glass beverage bottles and containers are not allowed in the park.
See Section 18.4 (K), above.

SECTION 18.7 ADVERTISING, ENTERTAINMENT AND ASSEMBLY

A. No person shall post, paint, affix, distribute, deliver, place, cast or leave about, any sign, bill, billboard, placard, ticket, handbill, circular, or advertisement in Tribal parks.

B. No person shall do any of the following without a permit, provided that no permit shall be required for any action or event sponsored by the McNary Community:

1. Display any advertising signs or other advertising matter, provided that a sign attached to a vehicle to identify the vehicle, or a sign lawfully on a taxicab or bus, is not prohibited.

2. Operate for advertising purposes any musical instrument, soundtrack or drum.

3. Hold public assemblages of twenty (20) persons or more without a use permit.

4. Conduct exhibitions without a use permit.

5. Hold a parade without a use permit.

SECTION 18.8 SOLICITING, GAMBLING, SALE OF MERCHANDISE PROHIBITED

A. No person shall sell or offer for sale any goods, services or other things in any park or recreation area, without a use permit or license.

B. Solicit alms, donations or contributions for any purpose, whether public or private.

C. Play any game of chance or have possession of any instrument or device for gambling.

D. Play, engage or take part in any game or competitive sport for money, or other valuable thing, without a written permit.

SECTION 18.9 NO FIRES OR BURNING

A. No open fires or campfires are allowed in the park, except in the grills provided. Written requests for the use of other special fire containers may be submitted but may not be used without the written approval of the Fire Department. Fire restrictions issued by the Tribe to help prevent wildfires may prohibit all fires, including the use of park grills, from time to time.

B. All fires and burning are further subject to Tribal Code.

SECTION 18.10 PERMITS, RESERVATIONS & APPEALS

A. Information about applications and use permits is available from the McNary Community Park Committee President, Vice President, Secretary, Treasurer and Member at Large.

B. Reservations for scheduled events and use permits for parks and recreation areas may be obtained by submitting applicable forms to the McNary Community Park Committee. The following information shall be provided:

- (1) The name and address of the applicant.
- (2) The name and address of the person, persons, corporation or association sponsoring the activity; if any.
- (3) The day and hours for which the permit is desired.
- (4) The park or portion thereof for which the permit is desired.
- (5) Any other information reasonably necessary to make a determination as to whether or not a permit should be issued.
- (6) Any requests for variances from park rules and regulations.

C. The following criteria must be met prior to scheduling an activity or issuing a use permit:

- (1) That the proposed activity or use of the park will not unreasonably interfere with or detract from the general public's enjoyment of the park.
- (2) That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation.
- (3) That the proposed activity or uses that are reasonably anticipated will not include violence, crime or disorderly conduct.

(4) That the proposed activity will not entail extraordinary or burdensome expense or police operation by the Tribe.

(5) That the facilities desired have not been reserved for other use on the date and hour requested in the application.

D. **Appeals.** Within ten (10) days after the receipt of an application, the McNary Community Park President shall notify an applicant in writing of the decision to grant or deny a permit request. In the event of a denial, the notification shall include the reason for the denial. Any aggrieved person shall have the right to appeal to the McNary Community Park Committee members by serving written notice thereof within five (5) working days of the denial. The McNary Community Park Committee members shall meet and decide within ten (10) days from the receipt of the appeal. The decision of the Committee shall be final.

E. An applicant for a use permit may be required to submit evidence of liability insurance covering injuries to members of the general public arising out of such permitted activities in such amounts as may be from time to time determined prior to the commencement of any activity or issuance of any permit.

F. **Revocation.** The McNary Community Park Committee shall have the authority to revoke a permit upon a finding of violation of any rule or ordinance or upon good cause shown.

SECTION 18.11 ENFORCEMENT & PENALTIES

A. The Tribal Police Department or other Tribal Law Enforcement Officer shall, in connection with their duties imposed by law, enforce the provisions of this Chapter.

B. The Tribal Police Department or other Tribal Law Enforcement Officer shall have the authority to order any person or persons acting in violation of this Chapter to leave the park or recreation area.

C. Violators of this Chapter may be cited using the citation forms or any other form approved by the Chief of Police. The citation shall show the specific Section or Sections alleged to have been violated, a brief description of the violation, whether the citation is for a civil or criminal offense, and whether the violation is charged as a second, third or greater offense. If there is no designation of a second or greater offense, the citation shall be considered a first offense. For continuing violations, the dates or the number of days shall also be noted on the citation.

D. Violations of the following Sections of this Chapter shall be charged on the first and subsequent offenses as a Class 2 Misdemeanor:

- (1) Section 18.4.
- (2) Section 18.6.
- (3) Section 18.8.
- (4) Section 18.9.
- (5) Section 18.11.

E. **Civil Violations.** When a violation of this Chapter, except as set forth in Section 18.11 D above, is undesignated or designated a first offense by the enforcement officer or the Tribal Attorney, a person found to have been in violation of this Chapter shall be deemed to have committed a civil offense and shall be subject to a civil penalty of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00), plus restitution for personal injuries, property damage or any other economic loss suffered by any person including the Tribe.

F. **Criminal Violations.** When a person convicted of a violation of this Chapter is a person who has been previously convicted of a violation of a provision of this Chapter within a period of twelve (12) months, the person shall be deemed to have committed a Class 2 Misdemeanor, pursuant to Arizona Revised Statutes, Title 13, Chapters 6, 7 and 8, as amended, and shall be subject to a fine of not less than Seventy-Five Dollars (\$75.00) nor more than Seven Hundred Fifty Dollars (\$750.00) for each violation or count, plus surcharges, fees and restitution for personal injuries, property damage or any other economic loss suffered by any person including the Tribe.

G. **Jail Time.** No violator shall be subject to jail time for offenses charged pursuant to this Chapter, but this prohibition shall not apply to offenses designated as violations of Arizona Revised Statutes, the United States Code or other applicable laws.

SECTION 18.12 SPECIAL EVENTS POLICY

A. Parties renting park facilities agree to leave the areas in the same order and cleanliness as they were found.

B. Parties renting park facilities are responsible for set up and take down of tables and chairs.

C. The McNary Community Park Committee reserves the right to cancel any reservation previously scheduled to any organization with a 24-hour advance notice. A full refund of deposit and rents paid will be made to the renter.

D. Extra property owned and used by renter shall be removed from the park facility immediately after the rental period. The McNary Community Park Committee is not responsible for property left in the park facility after the rental period.

E. The waiving of rental fees shall only be granted by approval of the McNary Community Park Committee.

F. Park facility rental cannot be scheduled for more than twelve (12) months in advance.

G. **Hold Harmless Agreement.** The authorized representative executing the contract application attached, in consideration of receiving permission to use municipal facilities for himself/herself and the organization represented and its members, release the Community of McNary, its Town Council, employees, and agents, from all claims and liability arising from or during the use of park facilities, and agrees to indemnify and hold harmless said released parties from all claims of any nature.

H. **Insurance.** The Community of McNary shall require combined single limit coverage for bodily and property damage. A current certificate of insurance must be attached to this rental agreement with policy limits of not less \$1,000,000.

I. **Parkland Facilities Fee Schedule (per hour/per day).** See schedule on back of the contract rental form.

J. Violation of any of the rules and regulations so stated may result in forfeiture of deposit and loss of future rights to rent park facilities.

K. All fees are payable in advance or by agreement.

L. An agent or lessee of event shall provide supervision for each event. On-site supervisor shall:

- (1) Be a competent adult.
- (2) Be capable of communicating an emergency to the proper agency.
- (3) Be familiar with the building(s) and facility.
- (4) Be capable of assisting people to exits during an emergency.
- (5) Be capable of operating on-site fire appliances.

M. Parking shall not be allowed that would obstruct exists or ingress or emergency vehicles and personnel.

N. Other safety requirements may be required due to the nature of the event.

O. An approved, no fee, sign permit shall be obtained for all temporary signs with the McNary Community Park Committee before installation of such signs.

P. No sign shall be construed or erected in such a manner as to interfere with or confuse traffic, or present a traffic hazard.

Q. Compliance with all Rules and Regulations as listed in the Tribal Health & Safety Code, Chapter Eighteen.