



WHITE MOUNTAIN APACHE TRIBE

*A Sovereign Nation Exercising Self-Governance
Over the Fort Apache Indian Reservation*

Resolution No. 10-2013-195

(Approving the Posting of Ordinance No. 265, Amending Section 11.1 and Sections 17.1 through 17.14 of the Health & Safety Code of the White Mountain Apache Tribe)

WHEREAS, the Tribal Council of the White Mountain Apache Tribe ("Tribe") is entrusted by the Tribe's Constitution to act in all matters that concern the welfare of the Tribe, to manage all economic affairs and enterprises of the Tribe, and to regulate subordinate organizations for economic and other purposes; and

WHEREAS, the Legal Department and the Prosecution Unit have this day proposed revisions to the Criminal Code for the White Mountain Apache Tribe as set forth in Ordinance No. 265 attached hereto; and

WHEREAS, Ordinance No. 265 proposes changes to Section 11.1 and Sections 17.1 through 17.14 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 Council has reviewed Ordinance No. 265 carefully, and considered the recommendations and the implications thereof in great detail and finds the posting of Ordinance No. 265 to be in the best interest of the Tribe.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that proposed Ordinance 265 attached hereto, which amends Section 11.1 and Sections 17.1 through 17.14 of the Health & Safety Code, is hereby recommended for posting by the Tribal Council.

BE IT FURTHER 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 and Ordinance No. 265, 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. 265 proposed herein may be sent to the attention of the Tribal Council Secretary, White Mountain Apache Tribe, P. O. Box 700, Whiteriver, AZ 85941.
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 it hereby directs that in the event that this Resolution conflicts with a prior Resolution or Policy, this Resolution shall supersede and govern over the conflicting subject matter.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event this Resolution directly conflicts with the Tribal Constitution, Tribal Ordinances or Federal Laws, this Resolution shall be declared null and void and have no legal effect.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Chairman, or in his absence, the Acting Chairman, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution. In the event that the Chairman fails to delegate signatory authority to an Acting Chairman, the Vice-Chairman may sign.


The foregoing resolution was on **OCTOBER 2, 2013** duly adopted by a vote of **SEVEN** for, **ZERO** against and **ZERO** abstentions by the Tribal Council of the White Mountain Apache Tribe, pursuant to the authority vested in it by Article IV, Section 1 (a), (q), (s), (t) and (u) of the Tribal Constitution, 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

10/3/13

Date



Mariddie J. Craig, Secretary

10/03/2013

Date

**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. 265, amending White Mountain Apache Health & Safety Code to revise Chapter Eleven, Section 11.1 and Chapter Seventeen, Sections 17.1 through 17.14, as follows:

**CHAPTER ELEVEN
ALCOHOLIC BEVERAGE CONTROL**

SECTION 11.1 DECLARATION OF PUBLIC POLICY AND PURPOSE

C. The Tribal Council finds that a complete ban on liquor within the Fort Apache Indian Reservation is ineffective and unrealistic. However, it recognizes a need still exists for strict regulation and control over liquor transactions within the reservation because of the many potential problems associated with the unregulated or inadequately regulated sale, possession, and consumption of liquor. The Tribal Council finds that ~~exclusive tribal~~ **strict control and regulation of liquor is necessary to achieve maximum economic benefit to the tribe, to protect the health and welfare of our tribal members, and to address specific tribal concerns relating to alcohol use on the reservation.**

E. This chapter shall be cited as the "White Mountain Apache Tribal Liquor Control Ordinance" and under the inherent sovereignty of the White Mountain Apache Tribe, shall be deemed an exercise of the Tribe's power **pursuant to 18 U.S.C. 1161**, for the protection of the welfare, health, peace, morals, and safety of the people of the tribe, and all its provisions shall be liberally construed for **the accomplishment of that purpose**, and it is declared to be public policy that the traffic in alcoholic beverages **if because it affects the public interest of the people, should be regulated to the extent of prohibiting all traffic of liquor, except as provided in this Chapter. It is also declared to be public policy that the enforcement of this Ordinance on the Fort Apache Indian Reservation by federal authorities pursuant to 18 U.S.C. 1154 is hereby authorized and encouraged.**

**CHAPTER SEVENTEEN
PROTECTIVE CUSTODY AND INVOLUNTARY COMMITMENT**

SECTION 17.1 STATEMENT OF PURPOSE

As directed by its tradition, custom, and Constitution, the White Mountain Apache Tribe seeks to protect and promote the health and welfare of its people and community members, including those who may present a danger to themselves or others due to mental disorder or illness, **or due to expressed suicidal ideation, threats of**

suicide, or one or more attempts to commit suicide. Under Tribal custom, any act of violence to self or others, whether intentional or occasioned by mental illness or emotional despondency, inflicts unacceptable harm to the individual and causes pain and loss to the family and community. To that end, the Tribe enacts this **Protective Custody and Involuntary Commitment Chapter** to the Health and Safety Code to establish procedures to review and enforce mandatory treatment and confinement orders for those in need of behavioral health professional care, while upholding strict due process standards respecting the rights of those persons subject to the provisions of this Code.

SECTION 17.2 DEFINITIONS

In this Chapter, unless the context requires another meaning:

L. “Expressed Suicidal Ideation,” means words, gestures, or artwork, whether addressed to oneself or others, that would indicate to a reasonable person an interest, desire, or intent to take one’s own life.

M. “Threats of Suicide,” means one or more statements to others stating an intent, either absolute or conditional, on the part of the speaker to commit suicide.

N. “Suicide Attempt,” means any act, however trivial or preliminary, in furtherance of the taking of one’s own life.

O. “Suicide Risk,” means a person who is in danger of committing suicide, as demonstrated by expressed suicidal ideation, threats of suicide, or one or more suicide attempts.

P. “Reporting Party,” means a person who reports to police that another person has expressed suicidal ideations, has threatened suicide, or has attempted suicide.

SECTION 17.3 SUICIDE

A. **Protective Custody.** Any person who is aware of expressed suicidal ideation, threats of suicide, or suicide attempts by another person (the “suicide risk”) may report such conduct to the White Mountain Apache Tribal Police. Upon receipt of such report, the Tribal Police shall investigate the report, and if the investigating officers find probable cause to believe that the person who is the subject of the report is in danger of committing suicide, they shall arrest the subject and place him or her in protective custody of the WMAT Department of Corrections. The arresting officers shall write a report stating the specific facts supporting their determination of probably cause that the subject was in danger of committing suicide, and shall forward said report to the Office of the Tribal Prosecutor as with any other report of arrest.

B. Detention and Evaluation of Suicide Risk. The WMAT Department of Corrections shall take the Suicide Risk into its custody, taking care to prevent the subject from harming himself, for a period of no less than twenty-four (24) hours. During the following business day, the Department of Corrections shall arrange with Apache Behavioral Health Service for a psychological evaluation of the Suicide Risk while the subject is in custody. Apache Behavioral Health Service shall perform a psychological evaluation of the Suicide Risk as soon as possible, but no later than twenty-four (24) hours (excluding weekends and holidays) after notification of the detention of the Suicide Risk in protective custody.

C. Disposition of Suicide Risk. If in the professional opinion of the Mental Health Professional performing the evaluation, the Suicide Risk is in need of Involuntary Commitment to a secure mental health facility, the Mental Health Professional shall forward the evaluation to the Tribal Prosecutor for Involuntary Commitment proceedings in accordance with this Chapter. Based upon the recommendations of the psychological evaluation, the Department of Corrections shall:

(1) Hold the Suicide Risk pending Involuntary Commitment proceedings as herein provided or criminal charges as provided in the WMAT Criminal Code; or

(2) Hold the Suicide Risk pending voluntary transfer to a treatment program as recommended by Apache Behavioral Health Service, in which case a Petition to Hold shall be filed in Tribal Court within twenty-four (24) hours of the evaluation (excluding weekends and holidays); or

(3) Release the Suicide Risk as no longer in danger of suicide.

D. If a Petition to Hold is filed pursuant to Subsection C(2), it shall contain a statement of facts supporting the assertion that the Suicide Risk remains a danger to either himself or others, and that continued detention is the least restrictive means to alleviate that danger. The Court may either rule upon the contents of the Petition, or set the matter for hearing within forty-eight (48) hours.

SECTION 17.34 PETITION FOR EVALUATION, DETENTION

SECTION 17.45 EMERGENCY APPREHENSION AND INITIAL SCREENING

SECTION 17.56 COURT REVIEW

SECTION 17.67 COURT ORDERED EVALUATION

SECTION 17.78 HEARING PROCEDURES

SECTION 17.89 PATIENT'S RIGHTS AT HEARINGS

SECTION 17.910 CONFIDENTIAL RECORDS

SECTION 17.101 VOLUNTARY ADMISSION

SECTION 17.142 TRAINING

SECTION 17.123 LIMITATION ON LIABILITY

SECTION 17.134 SEVERABILITY