



# WHITE MOUNTAIN APACHE TRIBE

A Sovereign Tribal Nation

## (Approving Posting of Ordinance No. 289, Amending the Rules of Criminal Procedure of the White Mountain Apache Tribe)

**WHEREAS,** pursuant to Article IV, Section 1(q) of the Tribal Constitution, the Tribal Council may enact ordinances 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 Office of the Attorney General has this day proposed revisions to the Rules of Criminal Procedure, in its entirety, as set forth in Ordinance No. 289 attached hereto; 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. 289 carefully, and considered the recommendations and the implications thereof in great detail and finds the posting of Ordinance No. 289 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 289, which amends the Rules of Criminal Procedure, in its entirety, attached hereto, 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:

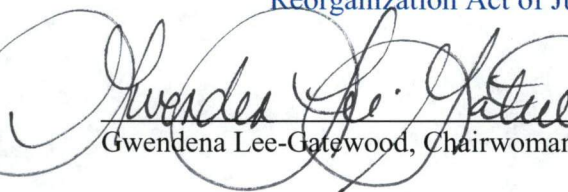
1. The Tribal Council Secretary is hereby authorized and directed to post this resolution and Ordinance No. 289, in each district for at least ten (10) days before final action by the Council. In addition, notices of the proposed ordinance shall be sent in the form of a press release to KNNB-FM and the Apache Scout.
2. Any and all comments concerning Ordinance No. 289 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 and the Attorney General's Office and to report any public comments to the Tribal Council, and schedule a meeting thereof for final action. Proof of posting should include start and end date of posting period, and locations of posting.

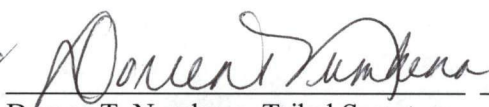
**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event this Resolution directly conflicts with the Tribal Constitution, Tribal Ordinances, or any material facts concerning the issues presented are later found to be false, this Resolution shall be deemed null and void and have no legal effect.

**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 the Chairwoman, or in her 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 **OCTOBER 4, 2018** duly adopted by a vote of **TEN** for, **ZERO** against, and **ONE** abstention by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it under the enumerated powers listed in Article IV, Section 1 of the WMAT Constitution, so ratified on September 30, 1993, and federally recognized pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984).

 10/10/18  
Gwendena Lee-Gatewood, Chairwoman      Date

 10-10-18  
Doreen T. Numkena, Tribal Secretary      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. 289, amending White Mountain Apache Rules of Criminal Procedure Rules 3.8, 3.12, 5.1 and 7.1, as follows:

**RULE 3.8      CITE-AND-RELEASE AND BOND SCHEDULE**

C.      Notwithstanding any Cite-and-Release or bond schedule issued pursuant to this Rule, no person who has been placed on probation, parole, or pretrial release for any previous offense may be released without first being brought before a judge for arraignment on the new charge(s).

**RULE 3.12      CONDITIONS OF RELEASE**

A.      Procedure. At arraignment or upon subsequent motion, the court shall make a determination of the conditions of release. The defendant shall have the opportunity to be heard by the court with respect to the conditions of release. The court shall issue an order containing the conditions of release and shall inform the accused of the conditions **in writing**, the possible consequences of their violation, and that a warrant for his or her arrest may be issued immediately upon report of a violation.

B.      Conditions. Every order of release on bond or defendant's own recognizance shall require, **in writing**, that the defendant:

1. Appear to answer and **to** submit to the orders and process of the court; and
2. Refrain from committing any criminal offense; and
3. Not depart from the reservation without permission of the court; and
4. If released after judgment and sentence pending appeal, shall diligently prosecute the appeal; **and**
5. **Shall consume no alcoholic beverages or illegal drugs while the proceedings are pending; and**
6. **Such additional conditions as the court may deem appropriate in the circumstances.**

**RULE 5.1      DISCLOSURE BY THE TRIBE**

G.      Willful refusal to provide disclosure. No criminal prosecution may be dismissed due to a failure by the prosecutor to timely disclose any information required to be disclosed by this Rule, unless such failure is the result of a willful refusal by the prosecutor to disclose required information that is in the prosecutor's possession.

**RULE 7.1      SENTENCING**

E.      After a person has been convicted of any offense for which the person will in all probability suffer a sentence of imprisonment, the person shall not be released on bail or the person's own recognizance unless it is established that there are reasonable grounds to believe the conviction is likely to be set aside on a motion for new trial, reversed on appeal, or vacated in a post-conviction proceeding.