

WHITE MOUNTAIN APACHE TRIBE

A Sovereign Tribal Nation

(Approving Posting of Ordinance No. 302, 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, as set forth in Ordinance No. 302 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. 302 carefully, and considered the recommendations and the implications thereof in great detail and finds the posting of Ordinance No. 302 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 302, which amends the Rules of Criminal Procedure, 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. 302, 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. 302 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 APRIL 7, 2021 duly adopted by a vote of EIGHT for, TWO 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).

Gwendene Lee- Gatewood 4.7.21 *Doreen Numkena* / 4/7/2021
Gwendene Lee-Gatewood, Chairwoman Date 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. 302, revising Rules 3.1 and 3.16 of the White Mountain Apache Rules of Criminal Procedure, as follows:

RULE 3.1 COMPLAINT

A **Except as otherwise provided herein, All criminal prosecutions for violation of the White Mountain Apache Tribal Code shall be initiated by the filing of a complaint in the Tribal Court by the office of the Tribal prosecutor. A complaint is a written statement signed and verified by the Tribal prosecutor, or prosecution advocate, or by a Tribal police officer that probable cause exists that a named individual has committed a particular criminal offense.**

(Subsections B, C, D, and E remain unchanged)

F. **In any case in which the maximum penalty for any one offense does not exceed One Hundred Twenty (120) days in jail, the prosecution may be initiated by the filing of the complaint in Tribal Court by a Tribal police officer who has personal knowledge of the case.**

RULE 3.16 PRETRIAL CONFERENCE

(Subsections A through C remain unchanged)

D. Referral to WMAT Wellness Court

The parties may agree to refer the defendant to the White Mountain Apache Wellness Court for an intensive rehabilitation program, as part of a Plea Agreement. If the defendant is accepted for participation in the Wellness Court program, the Court shall defer sentencing until such time as the defendant is no longer participating in the Wellness Court program. If the defendant presents proof that he or she has successfully completed the Wellness Court program, the Court shall vacate the defendant's conviction set forth in the Plea Agreement and shall dismiss all charges with prejudice. Any defendant who leaves the Wellness Court program without completing its requirements shall be sentenced in accordance with the Plea Agreement.