



WHITE MOUNTAIN APACHE TRIBE

A Sovereign Tribal Nation

(Approving Posting of Ordinance No. 283, 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, Rules 4.1 and 7.1, as set forth in Ordinance No. 283 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. 283 carefully, and considered the recommendations and the implications thereof in great detail and finds the posting of Ordinance No. 283 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 283, which amends the Rules of Criminal Procedure, Rules 4.1 and 7.1, 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. 283, 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. 283 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.

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 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 MAY 3, 2017 duly adopted by a vote of NINE 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).

"Acting"
Kary B. Velasquez 5-24-17
Ronnie Lupe, Tribal Chairman Date

Doreen T. Numkena 5-24-2017
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. 283, amending White Mountain Apache Rules of Criminal Procedure Rules 4.1 and 7.1, as follows:

**CHAPTER FOUR
RIGHTS OF THE PARTIES**

RULE 4.1 RIGHT TO COUNSEL

A. A defendant shall be entitled to be represented by counsel at his or her expense, or as the Tribal judge may appoint, in any criminal proceeding, except in those petty offenses such as traffic violations where there is no prospect of imprisonment or confinement after a judgment of guilty, and except where counsel is required to be provided under Rule 7.1(A) of these Rules. The right to be represented shall include the right to consult with counsel as soon as feasible after a defendant is taken into custody, at reasonable times thereafter, and sufficiently in advance of a proceeding to allow adequate preparation.

**CHAPTER SEVEN
POST VERDICT PROCEEDINGS**

RULE 7.1 SENTENCING

A. Any person who has been convicted of a criminal offense in the Tribal Court may be sentenced to one or a combination of the following penalties:

1. Imprisonment for a period permitted by the Tribal Code provision specifying the punishment for the offense, but only if all of the following conditions have been met may the Defendant be sentenced to imprisonment greater than One (1) Year, or a fine greater than Five Thousand Dollars (\$5,000.00) for any single offense:

a. If the Defendant has been previously convicted of the same or a comparable offense by any jurisdiction of the United States;

b. If the offense is comparable to an offense that would be punishable by more than One (1) Year of imprisonment if prosecuted by the United States or any of the States;

c. If the Defendant has been provided the right to effective assistance of counsel at least equal to that guaranteed by the United States Constitution;

d. If the Tribe, at its own expense, provides indigent Defendants the assistance of a defense attorney licensed to practice law by any jurisdiction in the United States that applies appropriate professional licensing standards and effectively ensures the competence and professional responsibility of its licensed attorneys;

e. If the judge presiding over the criminal proceedings (~~i1~~) has sufficient legal training to preside over criminal proceedings, and (~~ii2~~) is licensed to practice law by any jurisdiction in the United States; and

f. If the Tribal Code was publicly available at the time the Defendant was charged, and the proceedings have been recorded pursuant to the White Mountain Apache Tribe Judicial Code, Section 2.24 C.

g. If the Defendant is sentenced to a facility that meets the Bureau of Indian Affairs jail standards for enhanced sentencing authority.