



WHITE MOUNTAIN APACHE TRIBE

A Sovereign Tribal Nation

(Approving Posting of Ordinance No. 298, 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 shall exercise power to, "enact ordinances establishing and governing tribal courts and law enforcement on the reservation..."; and; and
- WHEREAS,** The Office of the Attorney General has this day proposed revision to Rules of Criminal Procedure, as set forth in Ordinance No. 298 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. 298 carefully, and considered the recommendations and the implications thereof in great detail and finds the posting of Ordinance No. 298 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 298, 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. 298, in prominent locations in each district for at least ten (10) days before final action by the Council.
2. Any and all comments concerning Ordinance No. 298 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 **SEPTEMBER 12, 2019** duly adopted by a vote of **EIGHT** for, **ONE** against, and **ZERO** 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).



Gwendena Lee-Gatewood, Chairwoman

Date

9-12-19



Doreen T. Numkena, Tribal Secretary

Date

9-12-19

**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. 298, revising Rule 7.3 of the White Mountain Apache Rules of Criminal Procedure, as follows:

RULE 7.3 PAROLE BOARD

- A. Authority. A Parole Board shall be convened for the purpose of considering or granting motions for 2/3 release, temporary release, and transport orders filed by or on behalf of defendants or by the **Tribe Tribal Prosecutor**. The Parole Board shall have the sole jurisdiction to grant 2/3 release and temporary release, except in cases of work release ordered by the court at the time of sentencing.
- B. Composition. The Parole Board shall consist of three persons: the Director of the Department of Corrections (“Director”), the Chief of Police, and the Chief Ranger.
- C. Conditions for 2/3 Release. Any person sentenced by the court to detention may be eligible for 2/3 release upon a showing of good behavior while serving their current sentence, and only after serving at least two thirds (2/3) of the sentence, at such time and subject to the discretion of the Parole Board. The Parole Board may also consider the person’s history of recidivism and other factors deemed appropriate to protect the safety of the community and of the victim and to punish the offense.
- D. Conditions for Temporary Release. At the discretion of the Parole Board, any person sentenced by the court to detention may be considered for temporary release for wakes and funerals, medical appointments, work release, or medical emergencies; subject to evidence that the inmate does not pose an unreasonable threat to the safety of the community or flight risk.