



WHITE MOUNTAIN APACHE TRIBE

A Sovereign Tribal Nation

(Amending Penalties for Violations of Resolutions No. 04-2020-86 and 06-2020-132)

- WHEREAS,** The Constitution of the White Mountain Apache Tribe (“Tribe”) of the Fort Apache Indian Reservation provides, at Article IV, Section 1(a) that the Tribal Council (“Council”) shall exercise the power, “to act in all matters that concern the welfare of the Tribe...”; and
- WHEREAS,** Throughout this worldwide COVID-19 pandemic, the Council has taken proactive measures to respond to, mitigate, and prevent the spread of the virus; and
- WHEREAS,** Among those measures have been the enactments of stay-at-home orders, a mandatory curfew, and an alcohol ban, all of which were implemented to try and prevent gatherings and transmission of this deadly disease; and
- WHEREAS,** Resolution No. 04-2020-86 “Instituting Stay-at-Home Order and Implementing Additional Precautionary Measures” and Resolution No. 06-2020-132 “Prohibiting All Alcohol Sales and Use on the Fort Apache Indian Reservation Until January 1, 2021 and Instituting Additional Penalties for Prohibited Sales and Use of Alcohol and Illegal Drugs”; and both assigned serious penalties to certain prohibited acts as a way to encourage compliance; and
- WHEREAS,** The Tribal Court addressed the Council and expressed concerns about the lack of discretion afforded them by the above resolutions and the severity of the penalties; and
- WHEREAS,** The Council instructed the Tribal Court to meet with the Office of the Attorney General and law enforcement agencies to discuss proposals for amending the penalties; and
- WHEREAS,** The Tribal Court, with letters of support from Tribal law enforcement agencies, this day, proposes that the penalties imposed by the above-named resolutions and their subsequent amending resolutions be amended, as listed below; and
- WHEREAS,** The Council has reviewed and considered the Tribal Court’s recommendations, and finds that enacting them now will provide more discretion to the Tribal Court and is in the best interests of the Tribe and its members.

Resolution No. 02-2021-17

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the penalties for violations of Resolution No. 04-2020-86 “Instituting Stay-at-Home Order and Implementing Additional Precautionary Measures” and all subsequent amending resolutions are hereby amended, and shall be as follows:

- A. Up to One Thousand Dollars (\$1000.00) fine, but not less than Two Hundred Dollars (\$200) fine; and/or
- B. Loss of Tribal Member privileges, including but not limited to: hunting; fishing; antler hunting; wood making; and/or
- C. Other penalties imposed by the Court to encourage compliance with all precautionary measures, which may include:
 1. Community service, when safe and practicable to serve such; and/or
 2. Referral to a behavioral health agency and mandatory compliance with a treatment plan.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the penalties for violations of Resolution No. 06-2020-132 “Prohibiting All Alcohol Sales and Use on the Fort Apache Indian Reservation Until January 1, 2021 and Instituting Additional Penalties for Prohibited Sales and Use of Alcohol and Illegal Drugs are hereby amended, and shall be as follows:

- A. First Offense: A fine not less than Two Hundred Dollars (\$200.00) and not more than Five Thousand Dollars (\$5,000.00) civil fine or other penalty, and other penalties imposed by the Court to encourage compliance with all precautionary measures, which may include:
 1. Community service, when safe and practicable to serve such; and/or
 2. Referral to a behavioral health agency and mandatory compliance with a treatment plan.
- B. Second Offense: Loss of Tribal member benefits up to one (1) year, including fishing and hunting privileges, housing benefits, wood cutting privileges, and other applicable benefits.
- C. Third Offense: The Tribe may take steps to exclude the person(s) from the Fort Apache Indian Reservation, consistent with the following procedures:
 1. The case will be reviewed by the Tribal Council or appointed committee who will decide if the person should be excluded from the Reservation and for what duration based upon the severity of all three violations as a whole;
 2. If the Council decides to pursue exclusion, a hearing will be set at Tribal Court to decide if the person should be excluded, based upon their guilt of the above-charges;
 3. Exclusion may be up to one (1) year.
 4. Any decision made at Court can be appealed through the Tribal Court of Appeals, provide that any such appeal must be filed not later than three (3) months of the decision by the Tribal Court.

Resolution No. 02-2021-17

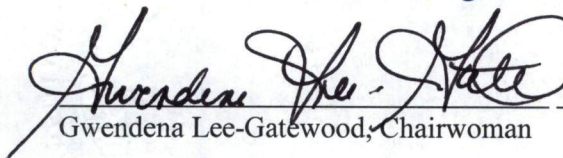
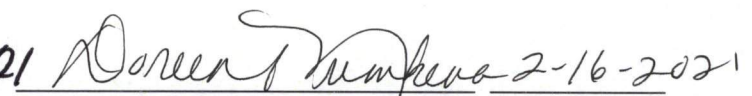
BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Court may, in its discretion, reduce or change fines previously imposed on persons found to be in violation of the above-named resolutions to comply with these amended penalties, so long as any changes to previously assessed penalties are not increased.

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 **FEBRUARY 10, 2021** duly adopted by a vote of **TEN** for, **ZERO** against, and **ZERO** abstentions 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).

 2.16.21  2-16-2021
Gwendena Lee-Gatewood, Chairwoman Date Doreen T. Numkena, Tribal Secretary Date