



WHITE MOUNTAIN APACHE TRIBE

A Sovereign Tribal Nation

(Approving Posting of Ordinance No. 306, Amending the Health and Safety Code of the White Mountain Apache Tribe)

- WHEREAS,** Pursuant to Article IV, Section 1(q) of the Tribal Constitution, the Tribal Council (“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 Health and Safety Code, as set forth in Ordinance No. 306, 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. 306 carefully, and considered the recommendations and the implications thereof in great detail and finds the posting of Ordinance No. 306 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 306, which amends the Health and Safety Code, 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. 306, 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. 306 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 AUGUST 4, 2021 duly adopted by a vote of EIGHT for, ZERO 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

8/9/21
Date



8-10-2021
Date

Doreen T. Numkena, Tribal Secretary

**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. 306, inserting Section 5.3 of the White Mountain Apache Health and Safety Code, as follows:

SECTION 5.3 AUTOPSIES; REPORTS; EXEMPTION FROM LIABILITY

- A. The Indian Health Service's or designee's ("Hospital") medical examiner or alternate medical examiner ("medical examiner") shall, upon request from the Tribal Police Chief, conduct a death investigation to determine whether or not the public interest requires an external examination, autopsy or other special investigation, provided that the Tribal Police Chief shall first notify the next-of-kin of the deceased.
- B. An external examination or autopsy is not required for deaths due to natural diseases that occur during surgical or anesthetic procedures unless the medical examiner or alternate medical examiner determines that an external examination or autopsy is necessary.
- C. In the determination of the need for an autopsy, the medical examiner may consider the request for an autopsy made by private persons or public officials. If the Tribal Police Chief requests an autopsy, the medical examiner shall perform the autopsy, or, in the case of an alternate medical examiner designated by the Hospital, an autopsy shall be performed by a forensic pathologist.
- D. A forensic pathologist shall perform an autopsy in cases of sudden and unexplained infant death in accordance with protocols adopted by the director of the department of health services for the State of Arizona. If the medical examiner or forensic pathologist determines that the infant died of sudden infant death syndrome, the medical examiner or forensic pathologist shall notify the Hospital. The medical examiner or forensic pathologist may retain tissue samples, specimens and other biological materials for diagnostic purposes.
- E. If an autopsy is performed, a full record or report of the facts developed by the autopsy in the findings of the person performing the autopsy shall be properly made and filed with the Hospital and the White Mountain Apache Police Department.
- F. The Tribe's Attorney General or Tribal Prosecutor may request, and on request shall receive, from the medical examiner a copy of the report on any autopsy performed.
- G. The medical examiner may perform other tests deemed necessary to determine identity and the cause and manner of death and may retain tissues, specimens and other biological materials for subsequent examination.
- H. When a death investigation, including an external examination, autopsy or other tests are performed by the medical examiner, alternate medical examiner or a forensic pathologist, no cause of action shall lie against the physician, police, hospital, or any other person for requesting, performing, participating in or determining the cause and manner of death or otherwise reporting the results from the external examination, death investigation, autopsy or other tests or for retaining specimens, tissues or other biological materials.