TITLE 19 - LAND

CHAPTER 4 - RECREATION PERMITS

ARTICLE 1 - NONMEMBER HUNTING PERMITS (SUSPENDED)

Legislative History: Ordinance No. 32, governing the issuance of hunting permits to nonmembers, was enacted by the Papago Council on April 4, 1958 and approved by the Papago Agency Superintendent on April 11, 1958; Ordinance No. 32 suspended by Resolution No. 15-148, "Suspending 19 Tohono O'odham Code Chapter 4, Article 1 - Nonmember Hunting Permits and Establishing Moratorium on Hunting by Nonmembers" effective May 15, 2015. Resolution No. 15-148 will sunset May 17, 2017.

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Suspending 19 Tohono O'odham Code Chapter 4, Article 1 – Nonmember Hunting Permits and Establishing Moratorium on Hunting by Nonmembers)

RESOLUTION NO. 15-148

WHEREAS, the Nation's Constitution vests the Legislative Council with the authority to "promote, protect, and provide for public health, peace, morals, education and general welfare of the Tohono O'odham Nation and its members," "to manage, protect, preserve and regulate the use of the property, wildlife, land, air and natural resources (including surface and ground waters) of the Tohono O'odham Nation," and to "provide for removal or exclusion from the Tohono O'odham Nation of non-members whose presence may be injurious to the peace, health or welfare of the Tohono O'odham" (Constitution, Article VI, Section 1(c)(2), Section 1(i)(2), and Section 1(c)(7)); and

WHEREAS, on April 4, 1958, the Papago Council enacted Ordinance No. 32, which was subsequently compiled as 19 Tohono O'odham Code Chapter 4, Article 1, governing the issuance of hunting permits to persons who were not enrolled members of the Papago Tribe ("non-members"); and

WHEREAS, Ordinance No. 32 provides a process for non-members to apply to the chairman of the Papago Council or tribal treasurer for a permit to hunt game on the Tohono O'odham Nation, but no system for issuing such permits or effectively regulating non-member hunting currently exists; and

WHEREAS, non-member hunting of game, including mountain sheep, all species of deer, and javelina, without the benefit of updated biological and environmental information may damage the Nation's resources, undermine members' beneficial use of these species, and injure cultural values; and

WHEREAS, it is in the Nation's best interest to prohibit non-member hunting on the Nation and allow the respective oversight committees, with assistance from the biological and cultural resources staff, to evaluate whether and under what conditions non-member hunting should be authorized; and

WHEREAS, the Agricultural and Natural Resources Committee recommends suspending 19 Tohono O'odham Code Chapter 4, Article 1 – Nonmember Hunting Permits and imposing a moratorium on non-member hunting on the Nation.

NOW, THEREFORE, BE IT RESOLVED by the Tohono O'odham Legislative Council that it suspends Ordinance No. 32, 19 Tohono O'odham Code Chapter 4, Article 1 – Nonmember Hunting Permits and prohibits hunting, which means the pursuing, shooting, shooting at, trapping, netting, capturing or attempt to

capture of any non-domestic animal, on the Nation's lands by any person who is not an enrolled member of the Tohono O'odham Nation ("non-member").

BE IT FURTHER RESOLVED by the Tohono O'odham Legislative Council that a non-member hunting or attempting to hunt on the Tohono O'odham Nation shall be subject to

(1) a civil fine of up to $10,000 per violation;

(2) civil forfeiture of weapons, communications technology, vehicles or other property in accordance with the procedure set forth in 7 T.O.C. Chapter 1, Section 1.17; and

(3) remove and exclusion in accordance with 4 T.O.C. Chapter 2 – Removal and Exclusion of Non-Members.

BE IT FURTHER RESOLVED by the Tohono O'odham Legislative Council that nothing in this resolution prevents an enrolled Nation's member from hunting within the exterior boundaries of the Tohono O'odham Nation, provided that:

a person subject to the Nation's criminal jurisdiction may be prosecuted for Criminal Damage to Public Property, Conspiracy, Solicitation, Aiding and Abetting, Unlawful Assembly, or other offenses for assisting, accompanying, or guiding a non-member hunting or for otherwise violating the Nation's laws and shall be subject to forfeiture of weapons, communications technology, vehicles, or other property used in the commission of such an offense in accordance with the procedure set forth in 7 T.O.C. Chapter 1, Section 1.17.

BE IT FINALLY RESOLVED that the provisions of this resolution to suspend Ordinance No. 32 and establish a moratorium on hunting by nonmembers shall expire on May 17, 2017, at which time Ordinance No. 32 shall again be in effect and the moratorium on non-member hunting shall be lifted.

The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 07TH day of MAY, 2015 at a meeting at which a quorum was present with a vote of 1,483.6 FOR; 1,443.3 AGAINST; [01] NOT VOTING; and [01] ABSENT, pursuant to the powers vested in the Council by Article VI, Section 1(c)(2) Section 1(i)(2), Section 1(c)(7) and Section 1(l) of the Constitution of the Tohono O'odham Nation, adopted by the Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat.984).

TOHONO O'ODHAM LEGISLATIVE COUNCIL

Timothy Joaquin, Legislative Chairman

14 day of May, 2015

ATTEST:

Evonne Wilson, Legislative Secretary

14 day of May, 2015

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 14 day of May, 2015 at 2:57 o'clock, P .m., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon his approval or upon his failure to either approve or disapprove it within 48 hours of submittal.

TOHONO O'ODHAM LEGISLATIVE COUNCIL

Timothy Joaquin, Legislative Chairman

[X] APPROVED **on the 15 day of May, 2015**

[ ] DISAPPROVED **at 4:10 o'clock, P .m.**

NED NORRIS, JR., CHAIRMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 15 day of May, 2015, at 4:37 o'clock, P .m.

Evonne Wilson, Legislative Secretary