

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Enacting 4 Tohono O'odham Code Chapter 4 Violating a Public Health Measure)**

RESOLUTION NO. 20-443

1 **WHEREAS, "[t]he sovereign powers, authority and jurisdiction of the Tohono O'odham**
2 **Nation and its government shall extend to all persons and activities carried on**
3 **within the boundaries of the Tohono O'odham Nation consistent with federal**
4 **law." (Constitution of the Tohono O'odham Nation, Article I, Section 2); and**
5 **WHEREAS, the Legislative Council is vested with the power "to enact criminal and civil laws**
6 **governing the conduct of any person within the Tohono O'odham Nation" and to**
7 **provide laws "to promote, protect and provide for public health, peace, morals,**
8 **education and general welfare of the Tohono O'odham Nation and its members"**
9 **(Constitution of the Tohono O'odham Nation, Article VI, Section 1(c)(6) and**
10 **1(c)(2)); and**
11 **WHEREAS, Indian tribes possess civil jurisdiction over non-members and non-Indians who**
12 **enter into consensual relationships with the Nation or its members and when**
13 **their presence or conduct in violating COVID-19 public health measures**
14 **threatens or has some direct effect on the political integrity, the economic**
15 **security, or the health and or welfare of the tribe (See *Montana v. United States,***
16 **450 U.S. 544 (1981)); and**
17 **WHEREAS, Indian tribes also possess the inherent right to exclude non-members from**
18 **tribally owned lands (*Merrion v. Jicarilla Apache Tribe,* 455 U.S. 130 (1982)); and**
19 **WHEREAS, early in 2020, the outbreak of the novel coronavirus identified as COVID-19 in the**
20 **United States, including the State of Arizona, deeply impacted the health and**
21 **welfare of the Tohono O'odham Nation and its members, and threatened the**
22 **integrity of the Nation's government, the Nation's culture, and its economic**
23 **security; and**
24 **WHEREAS, the Centers for Disease Control and Prevention has determined that American**
25 **Indians/Alaskan Natives are four times more likely to be hospitalized and more**
26 **than two and a-half times more likely to die from COVID-19 than white, non-**
27 **Hispanic persons; and**
28 **WHEREAS, on March 13, 2020, in response to the rapid spread of COVID-19 in the United**
29 **States, and confirmed presence in the State of Arizona, the Nation's Chairman**
30 **declared a State of Emergency for the Tohono O'odham Nation, and established**
31 **the Nation's Unified Command in order to coordinate necessary policies, and to**
32 **direct resources to the Nation in a timely manner; and**
33

RESOLUTION NO. 20-443

(Enacting 4 Tohono O'odham Code Chapter 4 Violating a Public Health Measure)

Page 2 of 3

1 **WHEREAS, by Resolution No. 20-094, the Legislative Council authorized the Nation's**
2 **Chairman or Vice-Chairwoman or their official designee to prepare, mitigate,**
3 **prevent, respond, and recover from the COVID-19 pandemic by issuing executive**
4 **orders to restrict the movement of people, to prohibit meetings, and to require**
5 **compliance with public health orders and directives; and**

6 **WHEREAS, in response to concerns raised by Nation's members about noncompliance with**
7 **and enforcement of COVID-19 emergency executive orders, the Domestic Affairs**
8 **Committee drafted and presented an amendment to the Nation's Criminal Code**
9 **Section 3.15 - Violating an Executive Order, which made violating certain**
10 **executive orders addressing disease outbreaks and other emergencies an offense**
11 **under the Nation's Criminal Code; and**

12 **WHEREAS, since Criminal Code Section 3.15 was enacted, the number of daily new COVID-19**
13 **cases in Arizona have risen to the highest levels during the current crisis; and**

14 **WHEREAS, in response to the evolving health crisis, in order to more effectively encourage**
15 **and support critical public health measures, and for other purposes, the**
16 **Domestic Affairs and Health and Human Services Committees recommend that**
17 **the Legislative Council repeal 7 Tohono O'odham Code Chapter 1 - Criminal Code,**
18 **Section 3.15 - Violating an Executive Order, and instead enact 4 Tohono O'odham**
19 **Code Chapter 4 - Violation of a Public Health Measure, as dated for reference**
20 **December 2020, as an additional tool for protecting public health and safety.**

21 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council:**

- 22 1. **Repeals 7 Tohono O'odham Code Chapter 1 - Criminal Code, Section 3.15 -**
23 **Violating an Executive Order, on the effective date of this resolution; and**
- 24 2. **Enacts 4 Tohono O'odham Code Chapter 4 - Violating a Public Health**
25 **Measure, on the effective date of this resolution; provided that 4 Tohono**
26 **O'odham Code Chapter 4 shall be repealed automatically on June 1, 2021**
27 **unless extended by Legislative Council resolution.**

28 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 10TH**
29 **day of DECEMBER, 2020 at a meeting at which a quorum was present with a vote of 2,136.9 FOR;**
30 **1,038.8 AGAINST; -0- NOT VOTING; and -0- ABSENT, pursuant to the powers vested in the Council**
31 **by Article I, Section 2; Article VI, Section 1(c)(6) and 1(c)(2) of the Constitution of the Tohono**
32 **O'odham Nation, adopted by the Tohono O'odham Nation on January 18, 1986; and approved by**
33 **the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant**
34 **to Section 16 of the Act of June 18, 1934 (48 Stat.984).**
35
36
37
38
39

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52

TOHONO O'ODHAM LEGISLATIVE COUNCIL

Timothy Joaquin
Timothy Joaquin, Legislative Chairman

11 day of December, 2020

ATTEST:

Evonne Wilson
Evonne Wilson, Legislative Secretary

11 day of December, 2020

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 11 day of December, 2020 at 12:45 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
Timothy Joaquin, Legislative Chairman

APPROVED

on the 14 day of December, 2020

DISAPPROVED

at 4:20 o'clock, P.m.

Ned Norris, Jr.
NED NORRIS, JR., CHAIRMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 14 day of

December, 2020, at 4:30 o'clock, P.m.

Evonne Wilson
Evonne Wilson, Legislative Secretary

ACTION: ENACTING 4 TOHONO O'ODHAM CODE CHAPTER 4 VIOLATING A PUBLIC HEALTH MEASURE

MOVED: COUNCILWOMAN LUCINDA ALLEN

SECOND: COUNCILWOMAN GRACE MANUEL

DATE: DECEMBER 10, 2020

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 384.8	1. LEANDER MASE (Francine Schooling) 2. ALBERTA J. RAY (Frances G. Antone)	192.40 192.40		X X		
CHUKUT KUK 347.5	1. VIVIAN JUAN-SAUNDERS (Juanita Homer) 2. MARLAKAY HENRY (Billman Lopez)	173.75 173.75	X X			
GU ACHI 279.3	1. VICTORIA HOBBS () 2. TIMOTHY L. JOAQUIN (Louis L. Johnson)	139.65 139.65	X X			
GU VO 264.5	1. DALLAS LEWIS (Nacho Flores) 2. GRACE MANUEL ()	132.25 132.25	X X			
HICKIWAN 213.8	1. SANDRA D. ORTEGA () 2. LOUIS R. LOPEZ (Delma M. Garcia)	106.90 106.90	X	X		
PISINEMO 230.7	1. MONICA K. MORGAN () 2. MARIETTA MARTIN ()	115.35 115.35	X X			
SAN LUCY 235.6	1. GLORIA RAMIREZ () 2. JANA MONTANA (Lorraine M. Eiler)	117.80 117.80	X X			
SAN XAVIER 238.9	1. JANICE FELIX (Adam Andrews) 2. DANIEL L.A. PRESTON III (Racheal Vilson-Stoner)	119.45 119.45	X X			
SCHUK TOAK 189.0	1. QUINTIN C. LOPEZ (Agnes V. Joaquin) 2. TERESA F. DONAHUE (Alberta Espinoza)	94.50 94.50	X X			
SELLS 547.1	1. EVELYN JUAN MANUEL () 2. ARTHUR WILSON ()	273.55 273.55		X X		
SIF OIDAK 244.5	1. LUCINDA ALLEN (Yolonda Garcia) 2. MARY LOPEZ (Ann M. Garcia)	122.25 122.25	X X			
TOTAL		3,175.7	2,136.9	1,038.8	-0-	-0-