

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Extending 4 Tohono O'odham Code Chapter 4 Violating a Public Health
Measure to December 31, 2021)

RESOLUTION NO. 21-164

- 1 **WHEREAS,** the Legislative Council is vested with the power “to enact criminal and civil laws
2 governing the conduct of any person within the Tohono O’odham Nation” and to
3 provide laws “to promote, protect and provide for public health, peace, morals,
4 education and general welfare of the Tohono O’odham Nation and its members”
5 (Constitution of the Tohono O’odham Nation, Article VI, Section 1(c)(6) and
6 1(c)(2)); and
- 7 **WHEREAS,** Indian tribes possess civil jurisdiction over non-members and non-Indians when
8 their conduct threatens or has some direct effect on the political integrity, the
9 economic security, or the health and or welfare of tribe, which includes conduct
10 such as violating COVID-19 public health measures (*Montana v. United States*, 450
11 U.S. 544 (1981)); and
- 12 **WHEREAS,** Indian tribes also possess the inherent right to exclude non-members from
13 tribally owned lands (*Merrion v. Jicarilla Apache Tribe*, 455 U.S. 130 (1982)); and
- 14 **WHEREAS,** early in 2020, the outbreak of the novel coronavirus identified as COVID-19 in the
15 United States, including the State of Arizona, caused deep concern for the health
16 and safety of the Tohono O’odham Nation (the “Nation”) and its members, and the
17 preservation of the Nation's culture and economic stability; and
- 18 **WHEREAS,** the Governor of the State of Arizona declared a Public Health Emergency on
19 March 11, 2020, in order to release federal resources to prepare, mitigate, and
20 respond to the needs of tribal and local jurisdictions; and
- 21 **WHEREAS,** on March 13, 2020, in response to the rapid spread of COVID-19 in the United
22 States, and confirmed presence in the State of Arizona, the Nation's Chairman
23 declared a State of Emergency for the Tohono O’odham Nation, and established
24 the Nation's Unified Command in order to coordinate necessary policies, and
25 direct resources to the Nation in a timely manner; and
- 26 **WHEREAS,** by Resolution No. 20-094, the Legislative Council authorized the Nation's
27 Chairman or Vice-Chairwoman or their official designee to prepare, mitigate,
28 prevent, respond, and recover from the COVID-19 pandemic by issuing executive
29 orders to restrict the movement of people, to prohibit meetings, and to require
30 compliance with public health orders and directives; and
- 31 **WHEREAS,** in response to public safety concerns raised by Nation's members about the
32 enforcement of executive orders to the COVID-19 pandemic, the Domestic Affairs
33 and Health and Human Services Committees drafted and recommended 4
34 Tohono O’odham Code Chapter 4, which was enacted by Resolution No. 20-443, to

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1 more effectively encourage, educate, and support public health measures,
2 including authorizing civil fines for all individuals who knowingly and repeatedly
3 violate public health measures and orders with an automatic repeal date of June
4 1, 2021; and

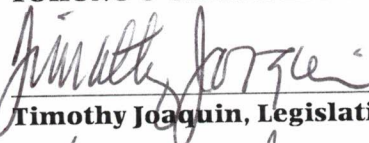
5 **WHEREAS,** the COVID-19 pandemic continues to negatively impact the United States, State of
6 Arizona, and the Tohono O'odham Nation; and

7 **WHEREAS,** the Nation's chairperson and vice chairperson, Domestic Affairs and Health and
8 Human Services Committees recommend extending 4 Tohono O'odham Code
9 Chapter 4 until December 31, 2021, noting that Section 4103 states a "person shall
10 not be cited for violating a provision of Section 4104 if the Nation's chairperson
11 issues and publishes to the general public a written executive order withdrawing
12 that public health measure" (Section 4103(C), 4 Tohono O'odham Code Chapter 4).

13 **NOW, THEREFORE, BE IT RESOLVED** that the Tohono O'odham Legislative Council extends 4
14 Tohono O'odham Code Chapter 4 - Violation of a Public Health Measure to
15 automatically repeal on December 31, 2021.

16 The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 28TH
17 day of MAY, 2021 at a meeting at which a quorum was present with a vote of 2,506.35 FOR; 669.35
18 AGAINST; -0- NOT VOTING; and -0- ABSENT, pursuant to the powers vested in the Council by
19 Article VI, Section 1(c)(6) and 1(c)(2) of the Constitution of the Tohono O'odham Nation, adopted
20 by the Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy
21 Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the
22 Act of June 18, 1934 (48 Stat.984).

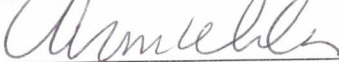
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25 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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29 Timothy Joaquin, Legislative Chairman

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1 day of June, 2021

34 **ATTEST:**

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Evonne Wilson, Legislative Secretary

28 day of May, 2021

Said Resolution was submitted for approval to the office of the Chairman of the Tohono
O'odham Nation on the 1 day of June, 2021 at 8:32 o'clock, a.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.

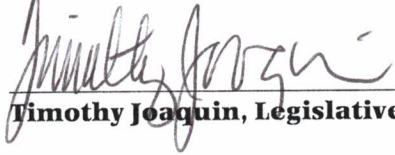
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TOHONO O'ODHAM LEGISLATIVE COUNCIL



Timothy Joaquin, Legislative Chairman

APPROVED

on the 1st day of June, 2021

DISAPPROVED

at 10:08 o'clock, a.m.



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

Returned to the Legislative Secretary on the 1 day of

June, 2021, at 10:55 o'clock, a.m.



Evonne Wilson, Legislative Secretary

ACTION: EXTENDING 4 TOHONO O'ODHAM CODE CHAPTER 4 VIOLATING A PUBLIC HEALTH MEASURE TO DECEMBER 31, 2021

Moved: COUNCILMAN DANIEL L.A. PRESTON III

SECOND: COUNCILWOMAN GRACE MANUEL

DATE: MAY 28, 2021

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 384.8	1. LEANDER MASE (Francine Schooling)	192.40	X			
	2. ALBERTA J. RAY (Frances G. Antone)	192.40	X			
CHUKUT KUK 347.5	1. VIVIAN JUAN-SAUNDERS (<i>Absent</i>) (Juanita Homer) (<i>Present</i>)	173.75	X			
	2. MARLAKAY HENRY (Billman Lopez)	173.75	X			
GU ACHI 279.3	1. VICTORIA HOBBS ()	139.65	X			
	2. TIMOTHY L. JOAQUIN ()	139.65	X			
GU VO 264.5	1. DALLAS LEWIS (Nacho Flores)	132.25	X			
	2. GRACE MANUEL ()	132.25	X			
HICKIWAN 213.8	1. SANDRA D. ORTEGA ()	106.90	X			
	2. LOUIS R. LOPEZ (Delma M. Garcia)	106.90	X			
PISINEMO 230.7	1. MONICA K. MORGAN ()	115.35	X			
	2. MARIETTA MARTIN ()	115.35	X			
SAN LUCY 235.6	1. GLORIA RAMIREZ ()	117.80	X			
	2. JANA MONTANA (Lorraine M. Eller)	117.80	X			
SAN XAVIER 238.9	1. JANICE FELIX (Adam Andrews)	119.45	X			
	2. DANIEL L.A. PRESTON III (Racheal Vilson-Stoner)	119.45	X			
SCHUK TOAK 189.0	1. QUINTIN C. LOPEZ (Agnes V. Joaquin)	94.50	X			
	2. TERESA F. DONAHUE (Alberta Espinoza)	94.50	X			
SELLS 547.1	1. EVELYN JUAN MANUEL ()	273.55		X		
	2. ARTHUR WILSON ()	273.55		X		
SIF OIDAK 244.5	1. LUCINDA ALLEN (Yolonda Garcia)	122.25		X		
	2. MARY LOPEZ (Ann M. Garcia)	122.25	X			
TOTAL		3,175.7	2,506.35	669.35	-0-	-0-