

WHITE MOUNTAIN APACHE

BUSINESS CODE



Effective August 4, 2021

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CHAPTER ONE: BUSINESS LICENSES

SECTION 1.1 DEFINITIONS:

- A. **“Person”** means all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, Massachusetts, business or common law trusts, societies and individuals transacting and carrying on any business on the reservation.
- B. **“Business”** means professions, trades and occupations and all and every kind of calling carried on for profit or livelihood.
- C. **“Hotels, Rooming Houses and Motels”** means every building or structure, kept as, used as, maintained as, or held out to the public to be a place where sleeping or rooming accommodations are furnished to the public or any part of the public, whether with or without meals, shall, for the purpose of this act, be deemed to be a hotel, and whenever the word “hotel” shall occur in this act, it shall be include lodging house and rooming house, wherein lodgings or sleeping quarters for five or more persons are provided for. Club house as operated by the government shall be exempted for payment of license fee.
- D. **“Public Eating Places”** means every restaurant, lunch room, tea room, soda fountain, buffet, grill room, lunch counter, sandwich stand, dining room, coffee shop, boarding house, hotel, club, and every other place where food and/or soft drinks are prepared and sold, to be consumed on the premises, and all kitchens, commissaries and other rooms appurtenant thereto or connected there- 1 -with. All places where sandwiches, lunches, box lunches, etc., are prepared for sale to the public shall also be classified as public eating places.
- E. **“Service Stations and Garages”** means every building or structure kept as, used as, maintained as, or held out to the public for the sale of gasoline, lubricating oils, tires, tubes, automobile accessories, operating a grease rack and repairing automobiles, for the purpose of this Act, shall be deemed to be a service station and/or garage.
- F. **“Mercantile Business”** means all persons who engage in or conduct within the reservation a business which shall include the sale of any or all of the following: groceries, dry goods, clothing, bottled drinks, meats, farming supplies, hardware supplies or other items normally handled in a store conducting a general grocery business or department store business.

SECTION 1.2 LICENSE REQUIRED

It shall be unlawful for any person to commence, practice, transact, or carry on any business specified without first having procured a license to trade from the Secretary of the Interior or his authorized representative pursuant to statute and regulations thereunder, 25 CFR 251, complying with its regulations, and procuring a license from the White Mountain Apache Tribal Council or without complying with any and all regulations contained in this chapter. Any person who violates this chapter shall be punished by having his license revoked, if one shall have been issued to him, and may be excluded from the reservation in accordance with the Law and Order Code.

SECTION 1.3 ISSUANCE OF LICENSE

It shall be the duty of the Secretary and/or Treasurer of the White Mountain Apache Tribal Council to prepare and issue a license under this chapter for every person required to pay a license hereunder, and to state in each license the amount thereof, the period of time covered thereby, the name of the person for whom issued, the business licensed, and a metes and bonds description of the location or place where said business is to be practiced, transacted or carried on; the license to be issued shall be first passed upon by the White Mountain Tribal Council and the Secretary and/or Treasurer instructed to issue said license in accordance with the foregoing.

SECTION 1.4 PAYMENT OF LICENSE TAX

All licenses required by this chapter to be paid shall be paid in advance to the Treasurer of the White Mountain Apache Tribal Council.

SECTION 1.5 PRODUCTION OF LICENSE

Every person having a license under the provisions of this chapter shall produce and exhibit the same when applying for renewal thereof, and whenever requested to do so by any officer authorized by the White Mountain Apache Tribal Council to issue, inspect or collect licenses.

SECTION 1.6 TRANSFER OF LICENSE; COUNCIL APPROVAL

All licenses issued hereunder are non-transferable and non-assignable, provided that the Treasurer may upon receipt of the transfer fee of \$20.00 and upon approval by the White Mountain Apache Tribal Council, authorize the transfer or assignment of any license to any other person by written endorsement thereon, when it appears to his satisfaction that the original applicant for said license has sold or otherwise disposed of his or its interest in said business for which said license was issued for the unexpired term of such license.

SECTION 1.7 LICENSE TAX DUE DATES

A. Unless otherwise specifically provided, all annual license taxes, under the provisions of this chapter, shall be due and payable in advance on the first day of July of each year; provided, that the license taxes covering new operations, commenced after the first day of July, may be prorated for the balance of the license period.

B. Except as otherwise provided in this chapter, license taxes, other than annual, required under this chapter, shall be due and payable as follows:

1. Semiannual license taxes of the first day of January and the first day of July of each year.
2. Quarterly license taxes on the first day of January, April, July and October of each year.
3. monthly license taxes on the first day of each month in advance.
4. Weekly license taxes on Monday of each week in advance.
5. Daily license taxes each day in advance.

SECTION 1.8 LICENSE TAX; SCHEDULE

The license tax set out in the following schedule to be imposed under this chapter is hereby established for all businesses within the exterior boundaries of the Fort Apache Indian Reservation and shall be paid by all persons within the Reservation.

The schedule shall be as follows:

A. Billiard and Pool Hall. A fee of \$10.00 per quarter annum in advance for each table up to five tables, and \$5.00 per quarter annum in advance for each additional table.

B. Billboard Advertising. Each person desiring to advertise by means of billboards shall first obtain from the White Mountain Apache Tribal Council a permit, paying therefore an annual license fee in advance as follows:

For a billboard 4' x 6' and under	\$10.00
For a billboard 8' x 25' and under	\$15.00
For a billboard in excess of 8' x 25'	\$40.00

C. Motels and Hotels. The following shall be paid annually by every person keeping a motel on the Fort Apache Indian Reservation, to wit:

1. For Motels, \$50.00 for the first five cabins or less and \$10.00 for each additional cabin.
2. For Hotels, \$100.00 annually.

D. Public Eating Places.

1. The license fee for the public eating places as defined in this chapter shall be \$125.00 annually.
2. For eating places as defined hereunder where facilities are provided for only seating ten or less persons, the annual fee shall be \$75.00.

E. Service Stations and Garages. The following fees shall be paid annually by every person keeping and maintaining a service station and/or garage and towing care service in the Fort Apache Indian Reservation, to-wit: \$125.00.

F. Mercantile Business. An annual fee shall be paid by every person keeping and maintaining a mercantile business in the Fort Apache Indian Reservation in the sum of \$125.00.

G. Bakeries. For carrying on the bakery business, the license fee shall be \$125.00 annually.

H. Building and Earthmoving Contractors. That no person, firm or corporation shall erect, construct, alter, move, improve, remove, convert or demolish any building or structure or shall use any earth moving equipment on the Fort Apache Indian Reservation or cause the same to be done without first obtaining a license as provided in sections 1.2, 1.3 and 1.4 of this chapter.

1. Fees: A license tax fee of one-percent (1%) of the total contract value of any contract for construction activities entered into by any person, firm or corporation, or their entity, shall be paid prior to performing any of the work as provided in Subsection H.
2. Building Permit: Prior to performing any of these services as provided in subsection H, a building permit shall be secured as provided in Section 1.2 of this chapter, paying therefore, the fee as provided in the fee scheduled marked, "Exhibit A", attached hereto and by reference made a part hereof.
3. Building Repairs: No person, firm or corporation shall repair any building or structures on the Fort Apache Indian Reservation without first securing a annual license and paying in advance a five dollar fee.
4. Exemptions:
 - a. White Mountain Apache Tribal members shall be exempt and not required to pay a fee for working or contracting on the Fort Apache Indian Reservation.
 - b. This subsection shall not apply to any authorized representative of U.S. Government, or to any mission schools, or to any White Mountain Apaches who are sole owners of property, and who are building or improving structures thereon for the use of occupancy of such owners and their families and if such structures are not intended for sale.
 - c. This subsection shall not apply to the repair, servicing of any personal property pursuant to the guaranty thereof and for which repair, no charge is made by the repairman.

I. Miscellaneous: Notwithstanding any other provisions of this chapter the following special fees shall be charged and collected in advance for the carrying on of any business, game or amusement, calling, profession or occupation listed in the section within the Fort Apache Indian Reservation.

Circuses	\$100.00 per day
Carnivals	\$100.00 per day
Fortune Tellers	\$ 50.00 per day
Street Fakers	\$ 50.00 per day
Faith Healers	\$ 50.00 per day

SECTION 1.9

OTHER OCCUPATIONS; LICENSE BY COUNCIL RESOLUTION

The Tribal Council of the White Mountain Apache Tribe shall have the power to license by resolution, subject to Secretarial review as provided in Section 1 (o), Article V, of the Tribal Constitution, any and all occupations, professions, trades or callings not specifically mentioned in this chapter and to collect a license tax thereon. The Tribal Council shall investigate the applicant's business, trade, calling or profession and determine the class of such, and place such tax thereon as is paid by the similar business, trade, calling or profession.

SECTION 1.10

EXEMPTIONS AND FEE WAIVERS

A. Charitable. The provisions of this chapter shall not be construed as requiring the procuring of any license for any fair, festival, bazaar, entertainment or enterprise given or conducted solely for the benefit of any church, or charitable organization, for a period not to exceed one week, nor to any exhibition or entertainment given for benefit of any church or charitable organization, school or armature dramatic or literary society.

B. Federal. Nothing in this chapter shall be deemed or construed to apply to any person transacting and carrying on any business exempt by virtue of the constitution or applicable statutes of the United States.

C. Tribal Member Businesses. General:

1. All annual land rental and license fees of members the White Mountain Apache Tribe doing business on the Fort Apache Indian Reservation are hereby waived for a period of five (5) years from the day of the commencement of the lease.
2. Upon the expiration of the said five-year period the tribal members shall pay the same annual land rental and license fees as non-members doing business on the Fort Apache Indian Reservation.
3. The lease of the land involved shall provide that if any part of parcel of the land of the business is subsequently transferred or assigned to any non-member, the annual land rental and license fees shall become immediately due and payable.

D. This subsection shall not apply to any authorized representative of the U.S. Government or to any mission schools, or to any White Mountain Apaches who are sole owners of property, building or improving structures thereon for the use of occupancy of such owners and their families and not intended for sale.

E. New Industry Waiver. The Tribal Council shall have the power to license businesses on the reservation without requiring the prospective licensee to pay any fee for said license when in the opinion of the Council the waiver of the fee would stimulate the prospective licensee to create a new industry on the reservation which would be an economic benefit to the Tribal members.

SECTION 1.11

COMPLIANCE; REVOCATION; HEARING

Any person properly licensed and operating a business within the exterior boundaries of the Fort Apache Indian Reservation shall comply with all laws and regulations pertaining to Indians and shall comply with all federal laws and regulations concerning trade with Indians and any person violating any of the above laws or regulations or violating any of the provisions of this chapter may have their license revoked and shall be revoked only after a hearing before the Tribal Council, and only after reasonable notice has been given the licensee by service on the licensee or on the licensed premises.

CHAPTER TWO: REGULATIONS OF PEDDLERS

SECTION 2.1 DEFINITIONS

- A. **"Peddler"** means a person who offers goods or services for sale within the exterior boundaries of the Fort Apache Indian Reservation, but does not do business from a fixed location or site on the Reservation under the authority of a federal and tribal trader's license.
- B. **"Peddling"** as used herein shall mean the selling or the offering for sale of any article or service within the exterior boundaries of the Fort Apache Indian Reservation by any person not doing such business from a fixed location or site on the Reservation under the authority of a federal and tribal trader's license.
- C. **"Non-member"** shall mean any person who is not a member of the White Mountain Apache Tribe as defined in this Constitution and By-Laws of the Tribe.
- D. **"Selling or offer for sale"** shall include the sale or offering for sale of any goods or services directly to the consumer, and shall not include sales, at wholesale, to the Tribe, to the Federal Government, or to established licensed traders.
- E. **"Tribal Fair and Rodeo Commission"** means the Tribal Fair and Rodeo Commission, its individual members, and any of its authorized delegates, inspectors or representatives as it may from the time to time designate.

SECTION 2.2 PEDDLER'S PERMIT REQUIRED

- A. Any non-member, who undertakes peddling as defined herein, shall secure a permit before any goods or services are offered for sale or sold to consumers within the Reservation.
- B. No peddlers permit shall be issued to any non-member peddler for the purpose of selling or offering for sale any items or food or beverage, except for the Labor Day and Forth of July holidays.
- C. The Tribal Fair and Rodeo Commission is empowered to issue the peddlers permit provided for herein and to carry out and enforce the provisions and regulations of this chapter.

SECTION 2.3 PEDDLER'S PERMIT FEES

- A. A fee for a peddlers permit shall be charged in the amount of \$25.00 for the first day issued and \$1.00 for each succeeding day; or \$150.00 for one year from the date of issuance said fee amount to be established from time to time by amendment of the Tribal Council.
- B. Fees paid for any peddlers permit shall be credited to the account of the White Mountain Apache Tribal Fair and Rodeo Commission and shall be expended for the purpose of offsetting the operation costs of the Tribal Fair and Rodeo Commission.

SECTION 2.4 BONDING OR OTHER ASSURANCES

- A. For the protection of the people of the Reservation, Tribal Fair and Rodeo Commission issuing a peddlers permit hereunder may require the permit applicant to furnish satisfactory evidence that the goods or services offered will be delivered, or to furnish a bond in lieu thereof satisfactory to the Tribal Fair and Rodeo Commission. The surety bond required may not be more than ten thousand dollars (\$10,000.00).
- B. The provisions of this section do not apply to amusement companies where the contract between the Tribe and the amusement company provides for the payment of a fee to the Tribe and for the protection of the public against personal injury and property damage by bond in the amount that may be specified by the Tribal Fair and Rodeo Commission.

C. For the protection of the people of the Reservation, the Tribal Fair and Rodeo commission issuing a peddlers permit hereunder, which authorizes the peddler to sell or offer for sale any item of food or beverage, may require that the permit applicant furnish satisfactory evidence that the food or beverage offered is uncontaminated, property stored, prepared or packaged, as relevant, and that such item shall be maintained in the condition evidenced as satisfactory to the issuing Commission, may require the permit applicant to post a bond in lieu thereof, in an amount satisfactory to the issuing officer, in addition to any assurances or bonds required in subsection 2.4A above.

D. Any goods or services offered for sale or sold by a peddler on the Reservation shall be subject to inspection at any time by persons authorized by the Tribal Fair and Rodeo commission, for the purposes of determining if a peddlers permit has been duly issued for the sale of said items, and if all other provisions of this Ordinance have been fully complied with.

**SECTION 2.5 ENFORCEMENT POWERS; PROCEDURES AND REMEDIES;
PENALTIES AND FORFEITURE OF MERCHANDISE**

Any person who introduces or attempts to introduce goods or services or to trade within the exterior boundaries of the Fort Apache Indian Reservation without a peddlers permit shall forfeit all merchandise offered for sale to the Indians, members of the White Mountain Apache Tribe, or White Mountain Apache Tribe, or found in the persons possession and is liable to a civil penalty of Five Hundred Dollars (\$500.00). This section may be enforced by commencing a civil action in the Tribal Court of the White Mountain Apache Tribe.

SECTION 2.6 EXCLUSION

Any person found to have violated any of the provisions of this chapter may be excluded from the Reservation in accordance with the Law and Order Code of the White Mountain Apache Tribe in addition to any other penalties provided herein.

**SECTION 2.7 REVOCATION OF PERMIT; RECOVERY OR FORFEITURE
OF BOND**

A peddler is subject to revocation of permit and recovery or forfeiture on the bond in whole or in part in the event of any violation of the provisions of this chapter after a show cause proceeding according to the provisions of Section 2.9, except as otherwise provided by Section 2.8, herein.

**SECTION 2.8 SEIZURE OF GOODS; TEMPORARY RESTRAINING ORDER
WITHOUT NOTICE**

In addition to any other remedies and penalties provided herein, if the Tribal Fair and Rodeo Commission has reasonable cause to believe that goods or services offered for sale or sold within the exterior boundaries of the Fort Apache Indian Reservation by a Peddler present a clear and present danger to the peoples health, safety, and welfare, it may petition, without notice, the Tribal Court for an order temporarily seizing said dangerous goods or restraining the offering of said dangerous service; provided, that said petition for the order is supported by an affidavit setting forth sufficient facts in support thereof; it is further provided that said order shall be personally served upon the peddler and further required that he shall show cause within five (5) days of services of the order why said order should not be made permanent.

SECTION 2.9 SHOW CAUSE PROCEDURES

- A. When the Tribal Fair and Rodeo Commission believes that violation of the provisions of this chapter is occurring or has occurred except as otherwise provided in Section 2.8, it shall serve the peddler with written notice setting forth in detail the nature of the alleged violation and stating what remedial action the commission proposes to take.
- B. The Peddler shall have ten (10) days from the date of receipt of the notice in which to show cause why the contemplated remedial action should not be ordered.
- C. If the peddler fails within a reasonable time to correct the violation or to show cause why the contemplated remedial action should not be ordered, the commission shall petition the Tribal Court for an appropriate order.

SECTION 1.10 SEVERABILITY

 If any provision of this chapter, or the application thereof, is held invalid, the remainder of this chapter, or other applications of such provisions, shall not be affected.

CHAPTER THREE: BUSINESS LEASES

SECTION 3.1 LAND LEASES REQUIRED

The land which may be occupied by the licensees obtaining licenses under this chapter shall be covered by a lease to be executed by the licensee with the White Mountain Apache Tribal Council, the said lease to be as prescribed by the White Mountain Apache Tribal Council for the land to be occupied.

SECTION 3.2 TRADER'S LEASES

A. That the attached Trader's Business Lease from Exhibit "A" is approved as the Trader's Business Lease from all traders doing business on the Fort Apache Indian Reservation.

B. This lease form may be hereafter altered by resolution of the Tribal Council and approval of same by the Secretary of the Interior or his duly authorized representative.

C. Paragraph 15 of the attached lease shall read: "The term of this lease shall be twenty five (25) years beginning on the date the lease is approved by the Secretary, however, gross rental fees shall be payable as of the first day of January, 1964 by all traders on the Fort Apache Indian Reservation who were doing business on the said reservation on that day."

CHAPTER FOUR: TRANSPORTATION

SECTION 4.1 PERMITS

That hereafter any person who intends to operate a bus line, taxi cab or other form of transportation of persons for pay upon the Fort Apache Indian Reservation shall first apply to the Tribal Council for a permit. Said application shall state the type of service the applicant intends to operate, the points between which he intends to provide service, the days of the week he intends to operate such service, the type of vehicle he intends to use and the name and address of the applicant, and the first name under which the service is to be known.

SECTION 4.2 REGULATIONS

Upon approval of the application by the Tribal Council to operate a bus line, taxi cab service or other passenger transportation service, said applicant shall apply the Arizona Corporation Commission for a franchise to operate said passenger service, and upon granting of said franchise by the Arizona Corporation Commission applying to the franchise so granted shall be complied with by said applicant and operator. If said application for franchise is not granted by the Arizona Corporation commission then the permit granted under Section 4.1 of this chapter is null and void and without effect.

SECTION 4.3 FRANCHISE

All passenger transportation services that are in operation as of the date of enactment of this chapter are hereby authorized, PROVIDED that any such transportation services now operating without franchise granted by the Arizona Corporation Commission shall make proper application to the Arizona Corporation Commission within sixty days of the adoption of this chapter, and therefore shall operate only in accordance with the regulations of the Arizona Corporation Commission governing such transportation services.

CHAPTER FIVE: UNLAWFUL SALES AND ADVERTISING PRACTICES

SECTION 5.1 DEFINITIONS

In this chapter, unless the context otherwise requires:

- A. **“Advertisement”** includes the attempt by publication, dissemination, solicitation or circulation, oral or written, to include directly or indirectly any person to enter into any obligation or acquire any title or interest in any merchandise.
- B. **“Chief of Police”** means the Chief of the Police Department of the White Mountain Apache Tribe or his authorized delegate.
- C. **“Authorized delegate”** means any attorney, investigator or administrative personnel employee by the Chief of Police and so designated.
- D. **“Examine”** means the inspection, study or copying any account, book, document, merchandise, paper or record.
- E. **“Merchandise”** means any objects, wares, goods, commodities, intangibles, real estate, or services.
- F. **“Person”** means any natural person or his legal representative, partnership, domestic or foreign corporation, any company, trust business entity or association, any agent, employee, salesman, partner, officer, director, member, stockholder, associate, or trustee.
- G. **“Sale”** means any sale, offer for sale, or attempt to sell any merchandise for any consideration.
- H. **“Reservation”** means the Fort Apache Indian Reservation.
- I. **“Tribal Court”** means the Tribal Court of the White Mountain Apache Tribe.

SECTION 5.2 UNLAWFUL PRACTICES

The act, use, or employment by any person of any deception, deceptive act or practice, fraud, false pretense, false promise, misrepresentation, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise whether or not any person has in fact been misled, deceived, or damaged thereby, it declared to be an unlawful practice.

SECTION 5.3 POWERS OF CHIEF OF POLICE

Upon receipt of a written complaint signed by the complainant to the Chief of Police setting forth facts that a person has engaged in or is engaging in, or is about to engage in, any practice declared to be unlawful by this article, or when the Chief of Police has reasonable cause to believe that such is the case, and when he believes it to be in the public interest that an investigation should be made to ascertain whether a person in fact has engaged in, is engaging in or is about to engage in, any such practice, he may:

- A. Require such person to file on such forms as he prescribes a statement or report in writing, under oath, as to all the facts and circumstances concerning the sale or advertisement of merchandise by such person, and such other data and information as he may deem necessary.
- B. Examine under oath any person in connection with the sale or advertisement of any merchandise.
- C. Examine any merchandise or sample thereof, or any record, book, document, or paper as he may deem necessary.
- D. Pursuant to an order of the Tribal Court, impound any record, book, documents, account, paper, or sample or merchandise material to such practice and retain the same in his possession until the completion of all proceedings undertaken under this chapter or in the Tribal Court.

SECTION 5.4

NONADMISSIBILITY AND CONFIDENTIALITY OF EVIDENCE OR INFORMATION

A. No information or evidence provided to the chief of Police by any person, pursuant to this chapter permitting the Chief of Police to compel or require the providing of such information or evidence, shall be admitted in evidence, or used in any manner whatsoever, in any criminal prosecution against such person.

B. All such information or evidence provided the Chief of Police shall be confidential and shall not be made public unless in the judgment of the Chief of Police the ends of justice and the public interest will be served by the publication thereof, provided that the names of the interested parties shall not be made public.

SECTION 5.5

SUBPOENA; HEARING; RULES AND REGULATIONS

A. To accomplish the objectives and to carry out the duties prescribed in this chapter, the Chief of Police, in addition to powers conferred upon him by this chapter may:

1. Issue Subpoenas to any person
2. Administer an oath or affirmation to any person
3. Conduct hearings in aid of any investigation or inquiry
4. Prescribe such forms and promulgate such procedural rules and regulations as may be necessary to enforce the provisions of this chapter, which rules and regulations shall be approved by the Tribal Council. Such rules and regulations shall not be inconsistent with the provisions of this chapter.

B. Service by the Chief of Police of any notice requiring a person to file a statement or a report, or of a subpoena upon a person, shall be made personally within the Reservation, but if personal service within the Reservation cannot be obtained, service may be made in compliance with the White Mountain Apache Law and Order Code.

1. Personal Service thereof without the reservation.
2. Mailing thereof by registered mail to the last known place of business, residence or both, within or without the Reservation, of such person for whom the name is intended.
3. Such service as the Tribal Court may direct in lieu of personal service within the reservation.

SECTION 5.6

FAILURE TO SUPPLY INFORMATION OR OBEY SUBPOENA

If any person fails or refuses to file any statement or report, or obey any subpoena issued by the Chief of Police, the Chief of Police may, after notice, apply to the Tribal Court, and after hearing thereon, request the following order until the person files the statement or obeys the subpoena:

1. Adjudging such person in contempt of court.
2. Granting injunctive relief, restraining the sale or advertisement of merchandise by such person which is subject to the change of being an unlawful practice as defined in this chapter.
3. Granting such other relief as the Tribal Court may deem proper.

SECTION 5.7

REMEDIES; INJUNCTION; OTHER RELIEFS; RECEIVER

A. Following an investigation made pursuant to Section 5.3 and when it appears to the Chief of Police that a person has engaged in, or is engaging in, any practice declared to be unlawful by this chapter, he may seek and obtain in an action in the Tribal Court an injunction prohibiting such person from continuing such practices or engaging therein or doing any acts in furtherance thereof after appropriate notice to such person. Such notice shall state generally the relief sought and be served at least forty-eight hours prior to the hearing of such action. The Tribal Court may make such orders or judgments as may be necessary to prevent the use or employment by a person of any unlawful practices, or which may be necessary to restore

to any person in interest any monies or property, which may have been acquired by means of any practice in this chapter declared to be unlawful, including the appointment of a receiver.

B. Following an investigation made pursuant to Section 3 and when it appears, to the Chief of Police that a person has engaged in or is engaging in a practice declared to be unlawful by this chapter and that such person is about to conceal his assets or his person or leave the Reservation, the Chief of Police may apply to the Tribal Court, ex parte, for an order appointing a receiver of the assets of such person. Upon showing made by affidavit or other evidence that such person has engaged in or is engaging in a practice declared to be unlawful by this chapter and that such person is about to conceal his assets or his person or leave the Reservation, the Court may order the appointment of a receiver to receive the assets of such person.

SECTION 5.8 POWERS OF RECEIVER

When a receiver is appointed by the Tribal Court pursuant to this chapter, he shall have the power to sue for, collect, receive, or take into his possession all the goods, and chattels, rights and credits, monies and effects, lands and tenements, books, records, documents, papers, chooses in action, bills, notes, and property of every description, including property with which such property has been mingled if it cannot be identified in kind because of such commingling, and to sell convey, and assign the same and hold and dispose of the proceeds thereof under the direction of the court. Any person who has suffered damages as a result of the use or employment of any unlawful practice, and submits proof to the satisfaction of the Tribal Court that he has in fact been damaged, may participate with general creditors in the distribution of the assets to the extent he has sustained out-of-pocket losses. The Tribal Court shall have jurisdiction on all questions arising in such proceedings and may make such orders and enter such judgments therein as may be required.

SECTION 5.9 ASSURANCE OF DISCONTINUANCE OF UNLAWFUL PRACTICE

In the enforcement of the provisions of this chapter, the Chief of Police may accept an assurance of discontinuance of any act or practice deemed in violation of the provisions of this chapter from any person engaging in, or who engaged in, such act or practice. Such assurance may include a stipulation for the payment by such person of reasonable expenses incurred by the Chief of Police or as restitution to aggrieved person, or both. Any such assurance shall be in writing and shall be filed with the subject to the approval of the Tribal Court. A violation of such assurance within six years of the filing thereof shall constitute prima facie proof of a violation of the provisions of this chapter. Such assurance of discontinuance shall not be considered an admission of a violation for any purpose.

SECTION 5.10 VIOLATIONS; CIVIL PENALTIES

A. If Tribal Court finds that any person is willfully using or has willfully used any act or practice declared unlawful by Section 5.2 of this chapter, the Chief of Police upon petition to the Court may recover on behalf of the White Mountain Apache Tribe a civil penalty of not more than five thousand dollars per violation.

B. For purposes of this section, a willful violation occurs when the party committing the violation knew or should have known that his conduct was a violation of section 5.2 of this chapter.

SECTION 5.11 VIOLATION OF ORDER OR INJUNCTION; PENALTY

A person who violates any order or injunction issued pursuant to this chapter shall forfeit and pay to the White Mountain Apache Tribe a civil penalty of not more than ten thousand dollars per violation. For the purpose of this section, the Tribal Court issuing any order or injunction shall retain jurisdiction, and the cause shall be continued. In such cases, the Chief of Police acting in the name of the White Mountain Apache Tribe may petition for the recovery of civil penalties.

SECTION 5.12 CLAIMS NOT BARRED

The provisions of this chapter shall not bar any claims against any person who has acquired any monies or property by means of any practice declared to be unlawful by this provisions of this chapter.

SECTION 5.13 COSTS RECOVERABLE

In any action brought under the provisions of this chapter, the Chief of Police is entitled to recover costs, which in the discretion of the Tribal Court may include a sum representing reasonable attorney's fees for the services rendered, for the use of the White Mountain Apache Tribe.

SECTION 5.14 DISSEMINATION OF CHAPTER

A copy of this chapter shall be attached to each business lease approved by the White Mountain Apache Tribal Council. In addition, a copy shall be sent to each holder of a business lease on the Reservation which is currant at the time of adoption of this chapter, by certified mail. Any person obtaining a peddlers permit will be required to read this ordinance and the peddlers permit issued will contain a statement signed by the peddler that he has read, understands and will abide by the provisions of this chapter.

CHAPTER SIX: REPOSSESSION OF SECURED PROPERTY

SECTION 6.1 PURPOSES

The underlying purposes and policies of this chapter are:

- A. To protect and secure the sovereignty of the White Mountain Apache Tribe ("Tribe");
- B. To protect the safety and personal property of the members of the White Mountain Apache Tribe and the tribe itself; and
- C. To provide for the simple and speedy resolution of disputes which arise out of secured transactions entered into by a person domiciled on the Fort Apache Indian Reservation, or the White Mountain Apache Tribe and any of its economic subsidiaries and departments, wherein repossession of personal property located within the boundaries of the White Mountain Apache Tribe is sought.

SECTION 6.2 SUPPLEMENTARY PRINCIPLES OF LAW APPLICABLE

Unless displaced by the provisions of this chapter, the principles of law and equity, including the law relating to capacity to contract, mutuality of obligations, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy or other validating or invalidating cause shall supplement its provisions.

SECTION 6.3 U.C.C. PROVISIONS

Insofar as there is no conflict with the provisions of this chapter, the provisions of the Uniform Commercial Code dealing with secured transactions, and set forth in Title 44 of the Arizona Revised Statutes shall supplement this chapter and shall apply to disputes arising in connection with its administration and enforcement.

SECTION 6.4 APPLICABILITY OF CHAPTER

This chapter shall apply to the repossession of personal property which serves as collateral in secured transactions entered into by persons domiciled on the Fort Apache Indian Reservation or the White Mountain Apache Tribe and any of its economic subsidiaries and departments, but only if the personal property is located within the boundaries of the Fort Apache Indian Reservation.

SECTION 6.5 DEFINITIONS

In this chapter, unless the context otherwise requires:

- A. **"Business"** includes any enterprise, organization, trade, occupation or profession, whether or not operated as a legal entity or for profit, including any business trust, corporation, partnership, joint venture or sole proprietorship.
- B. **"Consumer goods"** are those goods that are used or brought for use primarily for personal, family or household purposes.
- C. **"Deficiency Judgment"** means the contractual liability of a purchaser of secured property to pay to the secured party money owed on the basis of the purchase agreement following repossession of the secured property.
- D. **"Enrolled member"** means one who has been duly enrolled as a member of the White Mountain Apache Tribe as provided by tribal law.
- E. **"Indian"** means any person recognized by federal law as an Indian for any purpose, and denotes both the singular and the plural.
- F. **"Non-member"** means any individual who is not a member of the White Mountain Tribe.

- G. **“Person”** includes a corporation, company, partnership, firm, association or society, as well as a natural person, and the White Mountain Apache Tribe and its economic subsidiaries and departments.
- H. **“Personal Property”** includes all things which are movable at the time a secured transaction is entered into and which in fact serve as security for payment or performance of an obligation arising out of said transaction, including but not limited to vehicles, mobile homes, trailers, storage units, furniture and appliances, but not including money, documents, instruments, accounts, chattel paper, general intangibles, contract rights and other things in action. Personal property also includes the unborn young of animals and growing crops.
- I. **“Procedures of repossession”** refers to the rights of a secured party under Arizona law, and as set forth in A.R.S. § 47-9601, *et seq.*
- J. **“Purchaser”** means the person who owes payment or other performance of an obligation secured by personal property, whether or not the purchaser owns or has rights in the personal property.
- K. **“Secured Party”** means a lender, seller or other person who has agreed that personal property shall serve as security for payment or performance of an obligation.
- L. **“Secured Property”** means any personal property, consumer good, or other good to which a secured interest has attached by virtue of a secured transaction.
- M. **“Secured Transaction”** means any transaction in which personal property acts to secure payment or performance of an obligation by the buyer-owner of the personal property, and wherein the lender, seller or other person retains or reserves equitable title to the personal property notwithstanding shipment or delivery to the buyer-owner.
- N. **“Self-help Repossession”** means the repossession by the secured party, or an agent of the secured party, of secured property, without the consent of the purchaser at the time of repossession.
- O. **“Tribal Member”** means a member of the White Mountain Apache Tribe, as defined by Tribal law.
- P. **“Tribe”** means the White Mountain Apache Tribe of the Fort Apache Indian Reservation.

SECTION 6.6 REPOSSESSION OF SECURED PROPERTY

The secured property of persons domiciled on the Fort Apache Indian Reservation, or of the Tribe and its economic subsidiaries and departments shall not be repossessed from land subject to the jurisdiction of the White Mountain Apache Tribe except in strict compliance with the following:

- A. Self-help repossession is prohibited on the Fort Apache Indian Reservation. Informed, written consent to remove the personal property from land subject to the jurisdiction of the White Mountain Apache Tribe shall be secured from the purchaser at the time repossession is sought. The written consent shall be retained by the creditor and exhibited to any Judicial or law enforcement officer of the White Mountain Apache Tribe upon demand.
- B. Advanced Notice. Repossession consent may not be given, nor may the Tribal Court order repossession, until at least 10 days have elapsed since the secured party provided the purchaser with written notice of intent to repossess the secured property, including the amount of the delinquent balance that the purchaser needs to pay the secured party to avoid repossession proceedings, and how to dispute the alleged default.
- C. Consent to Repossession.
 - 1. Validity. Consent to Repossession shall be invalid if achieved under duress, artifice, or harassment, or not during the hours between 8:00 A.M. and 6:00 P.M.
 - 2. Retaining the Consent Form. The written consent shall be retained by the creditor and exhibited to any Judicial or law enforcement officer of the White Mountain Apache Tribe upon demand.
 - 3. Contents. Consent to Repossession Forms, to be valid, shall contain the following:
 - a. The statement “The laws of the White Mountain Apache Tribe do not allow secured parties to repossess goods without the consent of the purchaser at the time of repossession. If the buyer

- consents to repossession, the buyer should understand that they are giving up the right to legal review of the secured party's rights of repossession by the Tribe's Courts."
- b. A statement that describes the buyer's right to redeem the repossessed property before public auction, and of the amount necessary to redeem the repossessed property and the date before which the property may be redeemed.
 - c. The signature(s) of the buyer(s) giving their consent to the repossession; and
 - d. The name, address, phone number, and tribal business license number of the person and company making the repossession, and the name, address and phone number of the secured party on whose behalf the repossession is being made.
4. A copy of the written consent shall be provided to the purchaser at the time of repossession.
 5. Private Property. Persons attempting to gain the consent of purchasers to repossess secured property may, unless otherwise prohibited, enter the private property of the purchaser, but must leave if requested to do so. For the purposes of this sub-section, "private property" includes assignments or leases on which the secured property or the purchaser are located.
- D. Where the person domiciled on the Fort Apache Indian Reservation, or the Tribe or its economic subsidiaries and departments, refuses to sign said written consent to permit removal of the personal property from land subject to the jurisdiction of the White Mountain Apache Tribe, said personal property shall be removed only by order of the Tribal Court of the White Mountain Apache Tribe after an appropriate legal proceeding, wherein the rights and liabilities of the parties are determined.
 - E. If the secured property is an automobile or other item that contains the personal property of the purchaser or of any other person besides the secured party, such property shall be removed from the secured property and peaceably returned to the purchaser before repossession of the secured property.
 - F. Unsuccessful attempts to repossess property in a manner not provided for herein shall constitute a violation of this chapter. Private parties (non-businesses and non-governmental entities) may not contract to allow repossession terms contrary to this chapter.
 - G. The repossession orders issued by courts of other jurisdictions shall not be recognized, domesticated, nor enforced within the confines of the Fort Apache Indian Reservation, but may be used as evidence in repossession proceedings pursuant to this chapter.
 - H. Prohibited Remote Devices. Devices installed in a vehicle by the secured party or seller that remotely lock the ignition of a vehicle, remotely immobilize a vehicle, or track the totality of a vehicle's movements are hereby prohibited.
 - I. Exemptions.
 1. The Tribe. The Tribal Council may, by Resolution, authorize the Tribe, its subsidiaries, departments, enterprises or organizations, to enter into agreement terms contrary to the provisions of this Chapter.
 2. Businesses. Businesses, other than sole proprietorships, may enter into agreement terms contrary to the provisions of this Chapter, if done so by clear waiver(s) contained in the original financing purchase contract.
 3. Leases. This Chapter does not apply to the pure lease of equipment or personal property where replevin of the leased item is sought.

SECTION 6.7 PETITION FOR REPOSESSION

- A. In General. Repossession under Section 6.6(B) may only be accomplished by the secured party filing a Petition for Repossession in the Tribal Court.
- B. Contents. A Petition for Repossession shall, at a minimum, contain the following information:
1. The name and address of the purchaser and the location of the property;
 2. An identification of the property as described in the purchase agreement and which distinguishes that property from all other property with reasonable certainty;
 3. A brief description of the agreement terms that give the secured party the right to repossess the secured property and the grounds for breach of that agreement by the purchaser, giving rise to the right of repossession. A copy of that agreement must be attached to the petition.
 4. The total balance due and owed under the agreement;
 5. The remedy sought, whether repossession by the secured party, police escort during the repossession, delivery of item to the Court, damages, or other.
- C. The Petition must be verified by a sworn statement that its contents are accurate and complete.

SECTION 6.8 ACTION ON PETITION

- A. Summons. Upon filing of the Petition, the Clerk of the Court shall verify that it is complete, and if so, the Court shall issue a Summons to the purchaser directing that person to appear before the Court at a date and time certain for a Repossession Hearing.
- B. The Court shall schedule the Repossession Hearing to occur not less than five (5) and not more than ten (10) business days from the time of the filing of the Petition.
- C. The Summons shall contain a copy of the Petition, and a statement that if the purchaser fails to appear, the Court may order repossession.

SECTION 6.9 REPOSESSION HEARING

- A. Conduct of Hearing. Repossession Hearings shall be conducted informally. Because of the accelerated nature of the proceeding, the purchaser shall not be required to file written pleadings and evidence in advance of the hearing, but may present such evidence and witnesses at the time of the hearing, orally and in writing. Any rules of evidence adopted or enacted by the Tribe will be applied liberally and the Court may admit evidence and consider such in light of its credibility under the circumstances.
- B. Burden of Proof. The secured party shall bear the burden of proving, by a preponderance of the evidence, that:
1. The secured party and the purchaser entered into a valid agreement;
 2. The agreement pledged a security interest in a piece of property and allowed repossession of that property in the event of breach by the purchaser;
 3. The purchaser has breached the agreement; and
 4. The property in question is the same property identified as the secured interest in the purchase agreement.
- C. Order. If the secured party proves the above elements to the Court's satisfaction, the Court shall issue a written Repossession Order, consistent with the relief sought in the Petition. Such order shall be executed with the assistance of a law enforcement officer.

D. Claims by Purchaser. If the purchaser makes actionable and credible claims against the secured party for violations of this chapter, for warranty violation, or for other breaches of contract by the seller or secured party, the Court may order the property impounded pending the filing of a proper pleading by the purchaser within five (5) business days, and the Court rendering a decision in that matter. If the purchaser fails to timely file such pleadings, the Court shall immediately issue a Repossession Order.

E. Statutory Defenses. It shall be a defense to the Petition for Repossession, and a bar to the remedy of repossession, that the purchase agreement for the secured property failed to include those disclosures required by the Truth in Lending Act or regulations promulgated there under, or that the annual percentage rate of the purchase agreement was in excess of 9.9%.

SECTION 6.10 NOTICE OF PUBLIC AUCTION

The Secured party shall send, by registered mail return receipt requested, a Notice of Auction to the purchaser no less than fifteen (15) days before the auction of the secured property. The Notice shall include notification of the buyer's right to cure the default before the auction and participate in the auction. The notice shall list the time, date and location of such auction.

SECTION 6.11 DEFICIENCY JUDGMENTS

A. Prohibited. Notwithstanding any contractual terms to the contrary, the Court shall not order any deficiency judgment if the Court has ordered repossession, if the purchaser has consented to such repossession, or if the item has been repossessed in violation of this chapter. The Court shall not enforce deficiency judgments issued by other courts in contradiction of the public policy of the Tribe.

B. Purchaser's Liability for Damage to Secured Property. Upon the secured party proving damage to the secured property and that this damage occurred while the property was in the possession of the purchaser, the Court may order the purchaser to pay a reasonable amount of depreciation to the value of the secured property as a result of that damage. Such damage shall exclude reasonable wear and tear and value depreciation inherent to the passage of time.

SECTION 6.12 VIOLATIONS; SANCTIONS

A. Any non-member of the White Mountain Apache Tribe, found to be in willful violation of §6.6 or §6.9 of this chapter may be excluded from land subject to the jurisdiction of the White Mountain Apache Tribe.

B. Any business whose employee or agent (s) are found to be in willful violation of §6.6 or §6.9 of this chapter may be denied the privilege of doing business on land subject to the jurisdiction of the White Mountain Apache Tribe.

C. Impoundment. Equipment, including but not limited to vehicles, used in the willful violation of §6.6 or §6.9 of this chapter may be impounded by police pending the outcome of a civil hearing on liability for sanctions hereunder, and if liability be found, until payment of all fines and restitution imposed on the owner or operator of the vehicle.

SECTION 6.13 CIVIL LIABILITY

A. Any person who violates the provisions of this chapter is deemed to have breached the peace of the lands under the jurisdiction of the White Mountain Apache Tribe, and shall be civilly liable to the purchaser for any loss caused by the failure to comply with this chapter.

B. Vicarious Liability. Any business whose employees, contractors or agents violate this chapter shall be jointly and severally liable with the employees, contractors or agents who acted on the business' behalf, whether or not the business directed the employee, contractor or agent to violate this chapter.

C. If the personal property repossessed, in violation of §6.6 is consumer goods, then the purchaser has the right to recover in any event an amount not less than the credit service charge plus 10% of the principal amount of the debt.

D. Civil Fine and Restitution. Any person found to be in willful violation of this §6.6 of this chapter shall be liable for a civil fine of \$5,000.00. Additionally, the person found to be in violation of §6.6 shall be ordered to pay a restitution of either the amount provided in sub-section B, above, or \$5,000.00 to the purchaser. The restitution amount shall be given to the Court at the time of remittance of the civil fine, and then the Court shall record it as paid and turn it over to the purchaser. Failure of the secured party to pay fines in a timely manner may result in exclusion under Section 6.7.

SECTION 6.14 SEVERABILITY

If any provision of this chapter is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provisions or application, and to this end, the provisions of this chapter are declared to be severable.

SECTION 6.15 TRIBAL COURT JURISDICTION

The Tribal court shall have Jurisdiction of all actions arising under this chapter pursuant to the provisions of the Tribal Code relating to civil and criminal jurisdiction.

SECTION 6.16 SOVEREIGN IMMUNITY NOT WAIVED

Nothing in this chapter shall be construed as a waiver of the sovereign immunity of the White Mountain Apache Tribe in any court for any purpose.

CHAPTER SEVEN: REGULATION OF PRIVATE JUNKYARDS

SECTION 7.1 SHORT TITLE

The short title of this chapter shall be the Private Junkyard Ordinance.

SECTION 7.2 PURPOSE

The purpose of this chapter is to eliminate private junkyards unless both a permit to do business and proof of ownership of all motor vehicles can be shown, to clean up the reservation by eliminating unsightly private junkyards and old and inoperable motor vehicles, and to require proof of ownership to be shown for each car stored in a private junkyard.

SECTION 7.3 LIBERAL CONSTRUCTION

This chapter is to be liberally construed so as to effect its objects and to promote justice.

SECTION 7.4 SAVING CLAUSE

This chapter does not affect the rights and duties that matured, penalties that were incurred and proceedings that were commenced before its effective date.

SECTION 7.5 DEFINITIONS

- A. **“Inoperable motor vehicle”** means any automobile, truck, bus, motorcycle or other vehicle which is normally operated by a motor, but is, for some reason, disable and cannot be used for its normal purpose without repairs.
- B. **“Permit or license to do business”** means a document issued by the Tribal Business Office authorizing the operation of a business establishment upon the reservation.
- C. **“Private junkyard”** means any yard, lawn, lot allotment, farm camp, homesite, or other area within the reservation upon which sits more than four inoperable motor vehicles.
- D. **“Private junkyard owner/operator”** means anyone who supervises, maintains, or resides as tenant, owner, or squatter on the premises of a private junkyard.
- E. **“Non-private junkyard”** means any junkyard business which is located in an area designated for business activity but excluding private yards and residential areas which are used as a private junkyard.
- F. **“Private yard”** means any area which is not designated as a public business area.
- G. **“Proof of ownership”** means any documents such as a title or bill of sale which indicates the rightful and legal owner of a motor vehicle.
- H. **“Squatter”** means anyone residing on the reservation without permission.

SECTION 7.6 SCOPE

This chapter shall apply to all private junkyards and to all private junkyard owners/operators located within the exterior boundaries of the Fort Apache Indian Reservation whether they reside on the reservation legally or illegally.

SECTION 7.7 PRIVATE JUNKYARD PRESUMPTION; LICENSE AND PROOF OF VEHICLE OWNERSHIP REQUIRED

Any private yard which has greater than four inoperable motor vehicles located thereon is presumed to be a private junkyard; and the owner/operator is required to obtain a permit or license to do business as a private junkyard owner/operator and to show proof of ownership for each and every inoperable motor vehicle parked in the junkyard's vicinity.

SECTION 7.8 PERMIT TO DO BUSINESS

A. Any person engaging in the ownership or operation of a private junkyard on the reservation must obtain a permit/license prior to ownership and operation of such a business from the White Mountain Apache Tribe.

B. The license to do business as a private junkyard shall be the same as that for other reservation businesses as provided by tribal law, but shall be an annual license and shall include a surcharge for the use of private yards in a business. This surcharge shall be set at \$300 for the initial year, and an additional \$75.00 for each year of license renewal. The licenses shall incorporate all rules and regulations set forth for businesses located upon the reservation. A separate ground lease shall be required for all non-tribal members, and must be approved by the Tribal Council prior to obtaining a private junkyard license.

SECTION 7.9 FAILURE TO SHOW OWNERSHIP

Failure to show proof of ownership, as described herein, shall raise a rebuttable presumption that the vehicle has been abandoned or taken without permission with an intent to deprive the owner of its possession permanently. Such presumption shall be cause to initiate a federal and/or tribal investigation regarding the origin of the vehicles.

SECTION 7.10 VIOLATIONS; SANCTIONS

A. Failure to obtain a permit or license to do business as a private junkyard owner/operator from the White Mountain Apache Tribe constitutes a violation of this chapter.

B. Failure to show proof of ownership, upon demand by the Tribal police, of each and every inoperable motor vehicle parked within a private junkyard constitutes a violation of this chapter.

SECTION 7.11 ENFORCEMENT; INVESTIGATION

Upon locating a private junkyard, the Tribal police shall investigate to determine if the private junkyard owner/operator can show that he/she has a current valid license to operate this type of business and if he/she can show proof of ownership for each and every inoperable motor vehicle located in the private junkyard.

SECTION 7.12 ISSUANCE OF CITATION

A. Any violation of this chapter subjects the violator to civil fees, fines and/or punishment set forth in the following sections. A violation shall be sufficient cause for the issuance of a citation by the Tribal police.

B. Once a Tribal Police Officer has cited a person for a violation of this chapter, a court hearing shall be set within ten (10) working days from the date of the citation.

SECTION 7.13 NOTIFICATION AND RIGHT TO HEARING AND REBUTTAL

A. Any person who is cited under this chapter shall have the right to appear at the Tribal Court hearing to refute the charges made by the Tribal Police Officer.

B. Notice of the hearing shall be printed on the citation; and the notice shall state:

1. That a hearing must be set within ten days of the date on which the citation was issued; and
2. The specific court date as denoted in the space provided. The officer shall write the court date on the citation at the time he/she issued the citation.

C. The defendant has the right to appear with his/her legal counsel to answer the charges made by the Tribal Police on that hearing date.

SECTION 7.14 COURT ACTION

A. Any violator of this chapter, who is adjudicated and found guilty by the Tribal Court for a violation of this chapter, shall be fined an amount of \$500 dollars and/or imprisoned for a period not exceeding 60 days or both if he/she is a tribal member; non-member shall be charged a restitution fee of \$500 plus all expenses incurred for case investigation, court costs, and removal of the vehicles from the junkyard to a location outside the reservation.

B. Any adjudication of guilt for a violation under this chapter shall constitute sufficient cause for the Tribal Court to order the immediate removal of all inoperable motor vehicles from the site of the private yard to a location outside of the exterior boundaries of the fort Apache Indian Reservation.

SECTION 7.15 ORDER TO REMOVE

A. An order to remove all inoperable motor vehicles in violation of this ordinance may be requested by Tribal Police or the Tribal Prosecutor.

B. An order to remove shall be issued by the Tribal Court and shall give the violator 20 days from the entry of the order within which he/she must remove all inoperable motor vehicles at the site of the private junkyard to an area outside of the reservation.

C. The failure to remove these vehicles within the specified time shall constitute a repeated violation of this ordinance and the Tribal Law and Order Code as amended; and shall subject the violator to further legal proceedings for contempt of court and all other pertinent violations of the Tribal Law and Order code, as amended, without the necessity is issuing a second citation.

D. In any case where the vehicles are not removed from the reservation within the specified time period, the Tribe may order the vehicles' removal by towing or any other means at the sole expense of the violator.

SECTION 7.16 JURISDICTION

The White Mountain Apache Tribe shall have exclusive jurisdiction for the adjudication of all violations under this chapter.

**SECTION 7.17 CHAPTER NOT WAIVER OF SOVEREIGN IMMUNITY
OR CONSENT TO BE SUED**

Nothing in this chapter constitutes consent by the White Mountain Apache Tribe, its sub-organization, or any agent thereof to be sued in any Court. This chapter does not represent a waiver of the White Mountain Apache Tribe's sovereign immunity of any purpose.

SECTION 7.18 EFFECTIVE DATE

This chapter shall be prospectively applied beginning October 20, 1983.

SECTION 7.19 SEVERABILITY CLAUSE

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end, the provision of this chapter are severable.

CHAPTER EIGHT: HOUSE MOVER'S REGULATIONS AND LICENSE REQUIREMENTS

SECTION 8.1 DEFINITIONS

- A. **"House Mover"** as used in this chapter means any person, firm, partnership, corporation, association, contractor, or other organization, or combination of any of the above, who undertakes or offers to undertake, or purports the capacity to undertake or submits a bid to, or does by himself or by or through others, move, wreck or demolish any house, building, or other structure, and/or any appurtenances thereto, within the boundaries of the Fort Apache Indian Reservation.
- B. **"House"** as used in this chapter is synonymous with building and structure and means any residential structure, community building, garage, storage room, shed, barn or other shelter or building and shall include all appurtenances thereto.
- C. **"House Mover's Permit"** as used in this chapter shall mean a White Mountain Apache House Mover's Permit issued by the White Mountain Apache Tribe.
- D. **"Person"** as used in this chapter shall mean any person, firm, corporation, contractor, house mover, or other business.
- E. **"Reservation"** as used in this chapter shall mean the Fort Apache Indian Reservation and shall include all areas within the exterior boundaries of the Fort Apache Indian Reservation.
- F. **"Tribe" or "Tribal"** as used in this chapter shall mean the White Mountain Apache Tribe of the Fort Apache Indian Reservation.
- G. **"Tribal Agent"** as used in this chapter shall mean the person appointed by the White Mountain Apache Tribal Council as the designated agent of the Tribe to issue House Mover's Permits and collect fees therefore.

SECTION 8.2 ENGAGING IN HOUSING MOVING WITHOUT A PERMIT PROHIBITED

It is unlawful for any person, firm, contractor, partnership, corporation, association, or other organization, or a combination of any of them, to engage in the business, act or offer in the capacity, or purport to have the capacity of the house mover without having a House Mover's Permit in his own name as required herein unless he is exempt as provided in Section 8.7 of this chapter.

SECTION 8.3 CONTRACTOR'S LICENSE REQUIRED

- A. No House Mover's Permit shall be issued to any person who is not a licensed contractor duly licensed by the Registrar of Contractors or whose license has been suspended or revoked.
- B. Nothing in this section shall be construed as a consent to jurisdiction by the State of Arizona on the Fort Apache Indian Reservation.

SECTION 8.4 TRADER'S LICENSE AND HOUSE MOVER'S PERMIT REQUIRED

- A. No person shall move or contract to move any building or structure on the Reservation without first obtaining a Trader's License to conduct business on the Fort Apache Indian Reservation.
- B. No person shall move or contract to move any building or structure on the Fort Apache Indian Reservation without first obtaining a House Mover's Permit for each building or structure.

SECTION 8.5 ISSUANCE AND DISPLAY OF LICENSES AND PERMITS

- A. Upon receipt of the required fees and bonds as required by this chapter, and the applicant submitting evidence that he is a licensed contractor, and upon the applicant's submitting a House Mover's Permit Application and Agreement, and if the Tribal Agent determines that the applicant is qualified to obtain a Permit, he shall issue a House Mover's Permit to the applicant permitting him to move a designated house, building or other structure under the terms of the Permit ad pursuant to this chapter.

B. Permits issued under this chapter shall be signed by the Tribal Agent or his designated representative and by the permittee. The Permit shall be non-transferable and satisfactory evidence of possession of the permittee's Contractor's License, Trader's License and House Mover's Permit shall be exhibited by the permittee to any authorized agent, police officer, or game ranger of the White Mountain Apache Tribe.

SECTION 8.6 **LICENSE, PERMIT AND BOND FEES**

A. An annual license fee of \$100 shall be paid by every person prior to obtaining a Trader's License.

B. A House Mover's Permit fee of \$5.00 for each Permit shall be paid by every person prior to obtaining a House Mover's Permit.

C. Each person applying for a House Mover's Permit shall post a cash bond with the Treasurer of the White Mountain Apache Tribe in the amount of \$2,000.00 per Permit, which bond shall be deposited in the Tribal Treasury and shall be refunded provided that all work is performed in accordance with this chapter and the Permit Agreement. Any violation of this Chapter, the Permit Agreement, or the laws and regulations of the White Mountain Apache Tribe is cause for forfeiture of said bond.

SECTION 8.7 **EXEMPTIONS**

The White Mountain Apache Tribal Government, its operations and enterprises and members of the White Mountain Apache Tribe are exempt from the provisions of this chapter and the license, permit and bond requirements shall not apply to any tribal government operation or to any member of the White Mountain Apache Tribe.

SECTION 8.8 **VIOLATIONS; PENALTIES**

A. Any person found in violation of this chapter or any other laws and/or regulations of the White Mountain Apache Tribe shall be considered a trespasser and may be subject to arrest, tribal and/or federal court action, expulsion and exclusion from the Reservation, and seizure of property as security for potential financial obligations and damages to the White Mountain Apache Tribe as well as forfeiture of any bond posted in accordance with this chapter.

SECTION 8.9 **JURISDICTION**

The Tribal court of the White Mountain Apache Tribe shall have jurisdiction of all actions arising under this chapter pursuant to the provisions of the Tribal code relating to Civil and Criminal Jurisdiction.

SECTION 8.10 **SOVEREIGN IMMUNITY**

Nothing in this chapter shall be construed as a waiver of the sovereign immunity of the White Mountain Apache Tribe in any court of any purpose.

SECTION 8.11 **SEVERABILITY**

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application, and to this end, the provisions of this chapter are severable.