

RESOLUTION OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE
FORT APACHE INDIAN RESERVATION

WHEREAS, the Tribal Council pursuant to Resolution No. 04-91-113 reaffirmed by Resolution No. 05-91-141 established a Permanent Trust fund as part of the tribal budget for Fiscal Year 1991/1992 pursuant to Article V, Section 1 (i) and (k) of the Constitution of the White Mountain Apache Tribe; and

WHEREAS, said resolutions directed that the Tribal Chairman appoint a Permanent Trust Fund Committee to draft a Permanent Trust Fund Ordinance for Tribal Council enactment; and

WHEREAS, said committee has drafted a proposed Permanent Trust Fund Ordinance in the form and content attached hereto and incorporated by reference herein; and

WHEREAS, the Tribal Council concurs with said form and content and concludes that said Ordinance should be posted in each district by the Tribal Council Secretary for a minimum of 10 days for public comment as required by the Tribal Constitution.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby approves for posting by the Tribal Council Secretary as required by the Constitution of the White Mountain Apache Tribe, the proposed Permanent Trust Fund Ordinance in the form and content attached hereto and incorporated by reference herein.

The foregoing resolution was on September 17, 1991, duly adopted by a vote of six for and zero against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V, Section 1 (a) (b) (h) (i) (k) of the Amended Constitution and Bylaws of the Tribe, ratified by the Tribe June 27, 1958, and approved by the Secretary of the Interior on May 29, 1958, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

RECEIVED

SEP 23 1991

FORT APACHE INDIAN AGENCY
WHITETRIVER, ARIZONA


Chairman of the Tribal Council


Secretary of the Tribal Council

**PROPOSED
ORDINANCE OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE
FORT APACHE INDIAN RESERVATION**

BE IT ENACTED by the Tribal Council of the White Mountain Apache Tribe that the Government Code of the White Mountain Apache Tribe is hereby amended as follows:

**CHAPTER EIGHT
PERMANENT TRUST FUND**

SECTION 8.1 PURPOSE:

In past years, the White Mountain Apache Tribe accumulated substantial surplus earnings primarily through its major enterprise, the Fort Apache Timber Company. Necessary reductions in the annual allowable cut to preserve the Tribe's forests for future generations requires that the Tribal Council establish a permanent and dependable source of revenue into the future to protect against loss of revenue as natural resources become significantly reduced or depleted and to enable the White Mountain Apache Tribe to become less dependant on outside sources for income. Accordingly, a permanent trust fund is established as protection and security for the Tribe and its future generations.

SECTION 8.2 AUTHORITY TO ESTABLISH PERMANENT TRUST FUND:

A. Article V, Section 1 of the Amended Constitution and Bylaws of the White Mountain Apache Tribe provides that in addition to all powers vested in the White Mountain Apache Tribal Council by existing law, the White Mountain Apache Tribal Council shall exercise certain enumerated powers conferred by Section 16 of the Act of June 18, 1934 (48 Stat. 984) as amended, which enumerated powers shall not be construed pursuant to Article V, Section 1 (u) of the Constitution, to limit the powers of the White Mountain Apache Tribe.

B. Article V, Section 1 (a), (b), (h), (i) and (k) collectively provide in pertinent part that the Tribal Council shall represent the tribe and act in all matters that concern

the welfare of the tribe, negotiate, make and perform contracts and agreements of every description, regulate the uses and disposition of tribal property, manage all economic affairs and enterprises of the tribe, appropriate tribal funds for tribal purposes and to expend such funds in accordance with an annual budget approved by the Secretary of the Interior.

SECTION 8.3 TRUST FUND ESTABLISHED

A. The Tribal Council of the White Mountain Apache Tribe, pursuant to the authority set forth in Section 8.2 hereby establishes a permanent nonexpendable trust fund for the welfare of the Tribe in accordance with provisions of this Chapter.

SECTION 8.4 INITIAL AND SUBSEQUENT DEPOSITS BY TRIBAL TREASURER:

A. The Treasurer of the White Mountain Apache Tribe shall transfer an initial amount of \$1 million dollars into a trust fund to be called the Permanent Trust Fund.

B. Monies deposited into the Permanent Trust Fund pursuant to this Chapter shall not be encumbered, subject to, pledged or assigned as collateral or security for any tribal debt, letter of credit, loan or note of any kind whatsoever.

C. The Tribal Chairman and the Tribal Treasurer of the White Mountain Apache Tribe shall act on behalf of the White Mountain Apache Tribe in respect to the establishment and operation of trust accounts associated with the Permanent Trust Fund.

SECTION 8.5 CONTRIBUTION REQUIREMENT.

After the initial deposit of \$1 million dollars has been made by the Tribal Treasurer to establish the Permanent Trust Fund, eight (8%) percent of the total revenue, exclusive of other financing sources and uses, of the General Fund of the Tribe adjusted by the net operating interfund transfers of the General Fund exclusive of interfund transfers to the Permanent Trust Fund, shall be deposited in the Permanent Trust Fund. The transfer of said funds to the Permanent Trust Fund shall be made in twelve monthly installments. The calculation of the annual amount contributed to the Permanent Fund will be prepared by the Tribal Treasurer within 30 days of the receipt of the audited financial statements of the Tribe. The Tribe's independent auditors will provide to the Tribal Council a letter which opines on the appropriateness of the calculation prepared by the Tribal Treasurer.

A. Any change in the Contribution Requirement shall require a two-thirds (2/3) majority vote of the Tribal Council, provided that in no event shall the Annual Contribution Requirement exceed 12% or be less than five (5%) percent or Two Hundred Thousand Dollars (\$200,000.00) whichever is greater.

B. The funds transferred by the Treasurer of the Tribe to the Permanent Trust Fund shall be retained by the Tribe, invested by direction of the Tribal Council and accumulated for the future welfare of the Tribe. Neither the principal of said fund nor the net investment income earned, including unrealized gains and losses on the investment securities or any other investments by said fund, shall be expended for a minimum of twenty (20) years after monies commence to accumulate therein, except for expenses associated with administration of the fund. Thereafter, all income from the Permanent Trust Fund after adjustment for inflation may be expended, but only by Tribal Council Resolution, pursuant to an approved budget.

SECTION 8.6 INVESTMENT POLICY

A. Permanent Trust Fund monies shall not be invested in the following:

- (1) Loans to or other investments in Tribal entities;
- (2) Commodities;
- (3) Options or Futures Contracts;
- (4) Real Estate;
- (5) Non-investment grade debt securities;
- (6) Equity securities or other equity interests not actively traded on a national securities market.
- (7) Any other speculative investments that do not meet the criteria of investment policies established by the Tribal Council.

B. Investment Policy and Management of Trust Funds. After the initial \$1 million dollar deposit is made by the Tribal Treasurer to establish the fund, the Tribal Council shall direct the Tribal Treasurer to prepare comprehensive investment policies and procedures for the Permanent Trust Fund for approval by the Tribal Council. Modification of the

policies so developed shall require approval by a two-thirds majority vote of the Tribal Council.

SECTION 8.7 SITUS OF THE PERMANENT TRUST FUND

The construction and validity of the Permanent Trust Fund established herein shall be governed by the laws of the White Mountain Apache Tribe and such federal laws as may be applicable.

SECTION 8.8 REPEAL

This Ordinance shall not be repealed except by referendum pursuant to Article X of the Amended Constitution and Bylaws of the White Mountain Apache Tribe.

SECTION 8.9 SAVINGS CLAUSE

In the event any provision of this Ordinance is determined to be unlawful or invalid for any reason, the remaining provisions shall continue to be valid and in full force and effect.

The foregoing ordinance was on _____, 1991 duly adopted by a vote of _____ for and _____ against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V, Section 1 (a), (b), (h), (i), (k), (u) of the Amended Constitution and Bylaws of the Tribe, ratified by the Tribe June 27, 1958 and approved by the Secretary of the Interior on May 29, 1958 pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

Chairman of the Tribal Council

Secretary of the Tribal Council

**WHITE MOUNTAIN APACHE TRIBE
PERMANENT FUND CALCULATION EXAMPLE**

	<u>FY 1991</u>	<u>FY 1990</u>
TOTAL REVENUES EXCLUSIVE OF OTHER FINANCING SOURCES AND USES	\$7,388,220	\$10,704,084
NET OPERATING TRANSFERS	<u>1,835,815</u>	<u>194,182</u>
TOTAL CONTRIBUTION BASE	<u>\$9,224,035</u>	<u>\$10,898,266</u>

CONTRIBUTION CALCULATION:

MINIMUM	<u>\$200,000</u>	<u>\$200,000</u>
5 %	<u>\$461,202</u>	<u>\$544,913</u>
8 %	<u>\$737,923</u>	<u>\$871,861</u>
12 %	<u>\$1,106,884</u>	<u>\$1,307,792</u>