

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

WHEREAS, the Tribal Council has enacted 159 Ordinances; and

WHEREAS, the Tribal Council has reviewed and enacted five of the proposed revised tribal codes; specifically:

1. the Domestic Code
2. the Education Code
3. the Game and Fish Code
4. the Government Code
5. the Judicial Code

and

WHEREAS, there remains approximately 69 active ordinances that have not been incorporated into the approved codes; and

WHEREAS, the Legal Department has advised the Tribal Council of the difficulties in identifying and accessing the current tribal law due to the partial enactment of the revised code and the uncodified ordinances; and

WHEREAS, the Legal Department has codified the remaining 69 ordinances into the following titles:

1. Business Code
2. Criminal Code
3. Health and Safety Code
4. Housing and Construction Code
5. Juvenile Code
6. Labor Code
7. Land Code
8. Livestock Code
9. Probate Code
10. Tax Code

and

WHEREAS, the Tribal Council has been advised that the ordinance codification is not revised law and does not preempt the revised tribal code but merely provides for a temporary uniform systemization of current approved tribal law until such time as the Tribal Council has reviewed and enacted the remaining proposed revised codes; and

WHEREAS, the Tribal Council is further advised that no changes have been made to the existing tribal law through the codification of the active ordinances, except to categorize the ordinances into an applicable code and assign appropriate and uniform section numbers and identification of each section through a section title; and

WHEREAS, the following ordinances have been codified as the White Mountain Apache Probate Code:

Ordinance 27: Probate Procedures as amended; enacted September 24, 1958.

Ordinance 110: Amending Ord. 27; Section 9 Probate Fees; enacted May 5, 1960.

Ordinance 55: Amending Ord. 27; enacted February 26, 1964.

Ordinance 58: Amending Ord. 27 - Part II and Part III; enacted July 8, 1964.

Ordinance 28: Guardian and Ward; enacted December 10, 1958.

and

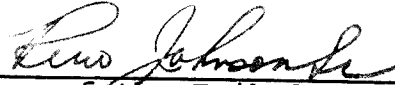
WHEREAS, the Tribal Council has reviewed the codification of the foregoing ordinances and concludes that said ordinances should be codified as the White Mountain Apache Probate Code until such time as the Tribal Council has had the opportunity to thoroughly review and enact the proposed revised Probate Code.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby approves the codification of the foregoing ordinances as the White Mountain Apache Probate Code.

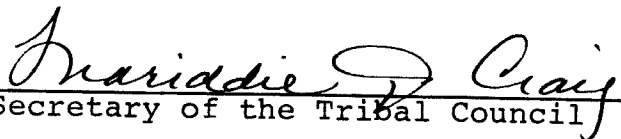
BE IT FURTHER RESOLVED by the Tribal Council that the sections of the foregoing ordinances shall be renumbered and identified pursuant to the outline attached to and made a part of this resolution.

BE IT FURTHER RESOLVED by the Tribal Council that the codification of the foregoing ordinances does not constitute any amendment or repeal of the existing tribal law and therefore, it is not mandatory that the codification be posted for public comment.

The foregoing resolution was on March 1, 1989, duly adopted by a vote of NINE 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 (i) 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

RECEIVED

MAR 10 1989

U.S. Agency for the Interior
Washington, D.C.

PROBATE CODE

ORDINANCE NO. 27:

PART I. GENERAL PROVISIONS

CHAPTER ONE
GENERAL PROVISIONS

Section 1. <u>Hearing; Notice; Waiver of Notice.</u>	<u>SECTION 1.1</u>	<u>HEARING; NOTICE; WAIVER OF NOTICE</u>
Section 2. <u>Guardian Ad Litem Required</u>	<u>SECTION 1.2</u>	<u>GUARDIAN AD LITEM REQUIRED</u>
Section 3. <u>Witnesses; Oaths</u>	<u>SECTION 1.3</u>	<u>WITNESSES; OATHS</u>
Section 4. <u>Arizona Intestacy Law Adopted</u>	<u>SECTION 1.4</u>	<u>ARIZONA INTESTACY LAW ADOPTED</u>
Section 5. <u>Testamentary Capacity; Wills: Attested; Holographic; Revocation</u>	<u>SECTION 1.5</u>	<u>TESTAMENTARY CAPACITY; WILLS: ATTESTED; HOLOGRAPHIC; REVOCATIO</u>
Section 6. <u>Approval or Disapproval of Will</u>	<u>SECTION 1.6</u>	<u>APPROVAL OR DISAPPROVAL OF WILL</u>
Section 7. <u>Supplemental Hearing; Notice</u>	<u>SECTION 1.7</u>	<u>SUPPLEMENTAL HEARING; NOTICE</u>
Section 8. <u>Creditors' Claims; Affidavit; Priorities</u>	<u>SECTION 1.8</u>	<u>CREDITORS' CLAIMS; AFFIDAVIT; PRIORITIES</u>
Section 9. <u>Probate Fees</u> [As amended by Ord. 110]	<u>SECTION 1.9</u>	<u>PROBATE FEES</u>
Section 10. <u>Decisions; Findings; Citation of Law</u>	<u>SECTION 1.10</u>	<u>DECISIONS; FINDINGS; CITATION OF LAW</u>
Section 11. <u>Notice of Decision</u>	<u>SECTION 1.11</u>	<u>NOTICE OF DECISION</u>
Section 12. <u>Distribution</u>	<u>SECTION 1.12</u>	<u>DISTRIBUTION</u>
Section 13. <u>Petition for Rehearing; Notice to Superintendent; Notice of New Hearing</u>	<u>SECTION 1.13</u>	<u>PETITION FOR REHEARING; NOTICE TO SUPERINTENDENT; NOTICE OF NEW HEARING</u>

PART II. SUMMARY DISTRIBUTION

CHAPTER TWO
SUMMARY DISTRIBUTION

Section 1. <u>Adoption of Summary Distribution Proceedings; Value and Nature of Eligible Estates</u>	<u>SECTION 2.1</u>	<u>ADOPTION OF SUMMARY DISTRIBUTION PROCEEDINGS; VALUE AND NATURE OF ELIGIBLE ESTATES</u>
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ORDINANCE NO. 27 (cont'd):

Section 1 - cont'd:

- (a) Application to Settle Estate:
- (b) Appointment of Trustee; Bond:
- (c) Trustee's Rights; Rights of Creditors:
- (d) [Deleted by Ord. 110]
- (e) Trustee's Sale of Personal Property Notice; Proceeds:
- (f) Distribution of Estate:
- (g) Trustee's Accounting:
- (h) Examination of Accounting; Discharge of Trustee
- (i) Distribution of Personal Property by Agency Superintendent

CHAPTER TWO (cont'd):

- SECTION 2.2 APPLICATION TO SETTLE ESTATE
- SECTION 2.3 APPOINTMENT OF TRUSTEE; BOND
- SECTION 2.4 TRUSTEE'S RIGHTS; RIGHTS OF CREDITORS
- SECTION 2.5 TRUSTEE'S SALE OF PERSONAL PROPERTY; NOTICE; PROCEEDS
- SECTION 2.6 DISTRIBUTION OF ESTATE
- SECTION 2.7 TRUSTEE'S ACCOUNTING
- SECTION 2.8 EXAMINATION OF ACCOUNTING; DISCHARGE OF TRUSTEE
- SECTION 2.9 DISTRIBUTION OF PERSONAL PROPERTY BY AGENCY SUPERINTENDEN

PART III. FELONS SHALL NOT INHERET
[As amended by Ord. 58]

CHAPTER THREE
FELONS SHALL NOT INHERET

Section 1. Person Feloniously Causing Death of Another Prohibited From Sharing in Estate of Deceased

SECTION 3.1 PERSON FELONIOUSLY CAUSING DEATH OF ANOTHER PROHIBITED FROM SHARING IN ESTATE OF DECEASED

ORDINANCE NO. 28:

GUARDIAN AND WARD

CHAPTER FOUR
GUARDIAN AND WARD

ARTICLE I

Section 1. Definitions

- (a) Guardian.
- (b) General Guardian.
- (c) Special Guardian.

SECTION 4.1 DEFINITIONS

- A. Guardian
- B. General Guardian
- C. Sepcial Guardian.

ARTICLE II

Section 1. Appointment of Guardian.

- (a) Minors.
- (b) Temporary Custody of Minors
- (c) Incompetents.

SECTION 4.2 APPOINTMENT OF GUARDIAN

A. Minors.

SECTION 4.4 TEMPORARY CUSTODY OF MINORS

SECTION 4.2 APPOINTMENT OF GUARDIAN

B. Incompetents.

ORDINANCE NO. 28 (cont'd):

ARTICLE III

Section 1. Qualifications of Guardian

ARTICLE IV

Section 1. Appointment of Guardian

(a) Preference.

...However, this order of preference is not controlling when...

(b) In the case of an incompetent...

(c) Bond of Guardian.

(d) Duties of Guardian.

ARTICLE V.

Section 1. Causes for Removal of Guardian.

ARTICLE VI

Section 1. Termination of Guardianship.

ARTICLE VII

Section 1. Testamentary Guardianship.

(a)

(b)

Section 2.

ARTICLE VIII

Section 1. Fees and Compensation.

ARTICLE IX

Section 1. Jurisdiction.

CHAPTER FOUR (cont'd):

SECTION 4.5 QUALIFICATIONS OF GUARDIAN

SECTION 4.6 APPOINTMENT OF GUARDIAN - PREFERENCE

A. Appointment of Guardian Preference.

B. However, this order of preference is not controlling when...

C. In the case of an incompetent...

SECTION 4.7 BOND OF GUARDIAN

SECTION 4.8 DUTIES OF GUARDIAN

SECTION 4.9 CAUSES FOR REMOVAL OF GUARDIAN

SECTION 4.10 TERMINATION OF GUARDIANSHIP

SECTION 4.11 TESTAMENTARY GUARDIANSHIP

A.

(1)

(2)

B.

SECTION 4.12 FEES AND COMPENSATION

SECTION 4.13 JURISDICTION