

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

- WHEREAS,** the Tribal Council by Resolution No. 03-92-079 directed the Tribal Council Secretary post the proposed Enrollment Code Ordinance in each District for a minimum of 10 days as required by the Constitution; and
- WHEREAS,** the Tribal Council Secretary was further directed to cause the proposed Enrollment Code Ordinance to be published in the Apache Scout; and
- WHEREAS,** the Tribal Council Secretary advises the Council that said ordinance has been posted and published in the Apache Scout in accordance with that directive; and
- WHEREAS,** the Council is further advised that no opposition has been voiced to final passage of said Ordinance.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby enacts the Enrollment Code of the White Mountain Apache tribe.

The foregoing resolution was on April 09, 1992 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) of the Amended Constitution and By-Laws 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

APR 20 1992

**FORT APACHE INDIAN AGENCY
WHITERIVER, ARIZONA**

MEMBERSHIP ORDINANCE OF THE
WHITE MOUNTAIN APACHE TRIBE OF ARIZONA

This ordinance is enacted pursuant to the authority contained in Article III of the Amended Constitution and Bylaws of the White Mountain Apache Tribe of Arizona, subject to the approval of the Secretary of the Interior or his authorized representative. This ordinance governs future membership and loss of membership into the White Mountain Apache Tribe of Arizona.

CHAPTER ONE
GENERAL PROVISIONS

SECTION 1-101 CONSTITUTIONAL PROVISIONS

Article III of the Constitution and Bylaws of the White Mountain Apache Tribe of Arizona provides:

ARTICLE III - MEMBERSHIP

Section 1. The membership of the White Mountain Apache Tribe shall consist of:

- (a) All persons of White Mountain Apache Indian blood whose names appear on the official census roll at Fort Apache Indian Agency, Whiteriver, Arizona, on January 1, 1938.
- (b) All persons born prior to the date of approval of this amended constitution from marriages that were contracted before August 26, 1938, between enrolled Apaches and persons other than Apaches.
- (c) All persons of one-half degree or more Apache Indian blood born to members of the White Mountain Apache Tribe prior to the date of approval of this amended constitution.
- (d) All children of one-half degree or more of White Mountain Apache Indian blood born after the date of approval of this amended constitution to any member of the White Mountain Apache Tribe; provided, that the parent, next of kin, recognized guardian, or person responsible for their care indicates a willingness to maintain tribal affiliation and to participate in tribal affairs by filing with the Tribal Council within one year after the birth of the child an application to have the child enrolled. The application shall be accompanied by the child's birth certificate or in the absence of a birth

certificate by any other evidence as to the eligibility of the child for enrollment as the Tribal Council may require. If the certificate, other evidence, and application are not filed within the designated time the child shall not be enrolled.

Section 2. The Council shall have the power to pass ordinances which are consistent with and pursuant to this constitution governing future membership, loss of membership, and the adoption of members by the White Mountain Apache Tribe, subject to review and approval of the Secretary of the Interior.

Section 3. The membership roll of the White Mountain Apache Tribe shall be kept current by adding thereto the names of persons who qualify for membership and by deleting therefrom the names of persons who have relinquished in writing their membership in the tribe. Upon receipt of death certificates of deceased members or other evidence of death satisfactory to the Tribal Council, the names of these deceased members shall be removed from the roll.

SECTION 1-102 DEFINITIONS

(A) Applicant: A person who seeks enrollment in the White Mountain Apache Tribe of Arizona and whose name appears on the application.

(B) Blood Quantum: A specific blood degree of White Mountain Apache Indian blood (degree of Indian blood) required to meet membership requirements.

(C) Burden of Proof: The necessity or duty of affirmatively proving a fact or facts in dispute on an issue raised between parties in a cause; the job of persuading someone that something is true or not true; and the job of producing evidence to that end.

(D) Direct Lineal Descendants: One who is in a line of descent from the ancestor and a direct line from the other, as from father or grandfather to son or grandson, or mother or grandmother, to daughter or granddaughter, or between the same person and his or her son or daughter, grandson or granddaughter, great grandson or great granddaughter, and so downward in the direct descending line.

(E) Due Process: A course of legal proceedings according to those rules and principles which have been established in the tribal constitution for the enforcement and protection of private rights; the essential elements of which are notice and opportunity to be heard and to defend in an orderly proceeding adapted to the nature of the case; to be heard by testimony, or otherwise, and to have the right of controverting, by proof, every material fact which bears a question of right in the matter involved.

(F) Enrollment Department: Those persons employed by the White Mountain Apache Tribe who are responsible for the administration of the enrollment office.

(G) Enrollment Document: An application, birth certificate or certified copy, hospital, clinic, doctors or midwives records, baptismal certificate, affidavit signed by relatives, friends or doctors, or other written data submitted by a member or applicant for membership, to the enrollment department, to establish or meet the requirements for membership.

(H) Paternity Acknowledgement or Statement: A document, under oath, signed by the father of a child born out of wedlock, which states that he is the father. Paternity statements issued by other members of the immediate family are not recognized for enrollment purposes.

(I) Petitioner: A person who seeks review of an enrollment decision.

(J) Relinquishment of Membership: The voluntary, total withdrawal from membership with an Indian tribe, including the White Mountain Apache Tribe, by a tribal member. The withdrawal must be in writing and is effective upon resolution of the Tribal Council of the White Mountain Apache Tribe. The Tribe cannot refuse relinquishment of membership unless the enrollee is legally incompetent.

(K) Sponsor: A person who has filed an application for enrollment on behalf of another person.

(L) Tribal Council: The Tribal Council of the White Mountain Apache Tribe.

SECTION 1-103 NOTICE

(A) Any notice to any person which is required to be or may be given under the provisions of this ordinance shall be given in writing by certified mail, return receipt requested. Service of such notice shall be deemed affective five (5) days after deposit in the United States mail.

(B) In the event a return receipt is not signed and returned within ten (10) days after mailing, or if returned in such a manner as to indicate that the person entitled to receive notice may no longer reside at the address stated, the Enrollment Department shall use its best efforts to determine the address or location of said person and give actual notice as may be appropriate.

(C) Any person giving notice under this Section shall execute a proof of service certifying in writing as to each notice, the date, place, method of delivery and upon whom it was made.

(D) Nothing contained in this Section shall in any way operate to change or be deemed to affect the time limitations hereafter set forth in this ordinance.

SECTION 1-104 RIGHT TO COUNSEL

Any applicant for enrollment or any person affected by an enrollment decision shall have, at all stages of the decision making process, the right to representation by legal or other counsel at his or her own expense.

SECTION 1-105 FAILURE TO APPEAR AT HEARING

Failure of a petitioner or other affected person to appear at a duly scheduled hearing shall in no way affect the power of the Enrollment Committee to conduct said hearing. Such failure shall be deemed to be a waiver of the right of personal appearance and the Enrollment Committee shall conduct the hearing and issue a final decision based on the record and evidence properly presented.

SECTION 1-106 CONFIDENTIALITY

(A) The Tribal Council, Enrollment Department and Enrollment Committee shall maintain the highest degree of confidentiality and integrity of all enrollment information as is consistent with full performance of all duties and responsibilities prescribed by this ordinance.

(B) All meetings of the Enrollment Committee regarding enrollment shall be closed to the public except as provided in this ordinance.

(C) All computer enrollment programs shall be restricted and access shall be by the Enrollment Department only or by the Tribal Council by resolution.

(D) An alphabetical listing with enrollment numbers may be made available for access by other departments upon written permission granted by the Tribal Council. All requests shall be submitted in writing to the Enrollment Department, shall clearly set forth the uses to which the listing will be put and shall justify the need for primary access. The Enrollment Department shall make a written recommendation thereon to the Tribal Council concerning each request.

(E) Records: All permanent enrollment records shall be kept secured in a locked cabinet and to the extent feasible in a fireproof room.

CHAPTER TWO
MEMBERSHIP

SECTION 1-201 MEMBERSHIP CRITERIA

(A) The membership of the White Mountain Apache Indian Tribe of Arizona shall consist of those persons specified in Article III of the Constitution and Bylaws of the White Mountain Apache Tribe and their direct lineal descendants, who qualify for membership, provided that any applicant for membership must be a citizen of the United States.

(B) Adoption Into Tribal Membership: Children of one-half degree or more White Mountain Apache Indian blood, born after May 29, 1958, to any member of the White Mountain Apache Tribe who submit to the Tribal Council or have submitted in their behalf documents listed below, may upon a (majority) vote of the White Mountain Apache Tribal Council, be adopted into tribal membership:

- (1) An application for enrollment.
- (2) A birth certificate or other acceptable evidence of birth and natural parentage.

(C) Effective Date of Enrollment: The effective date of enrollment of individuals taken into tribal membership under the provisions of this Chapter shall be the date of the Tribal Council action approving the adoption.

SECTION 1-202 TRIBAL MEMBERSHIP ROLL

(A) A Tribal membership roll shall be maintained containing the names of all enrolled members of the White Mountain Apache Tribe, arranged in alphabetical order. The roll shall also indicate each member's enrollment number, sex, date of birth, degree of Indian and tribal blood, and a column for remarks indicating date of enrollment, the name and base roll of the person's parents and any other pertinent information.

(B) The Tribal Council shall cause the Tribal membership roll to be kept current and shall semi-annually certify the roll. The names of all persons who are deceased and all persons who have relinquished in writing their membership in the White Mountain Apache Tribe or any other tribe shall be noted on the roll, and the names of all persons whose applications for enrollment have been approved by the Tribal Council shall be added to the roll. The foregoing information shall be provided to the Bureau of Indian Affairs semi-annually.

(C) In accordance with Article III of the Amended Constitution and Bylaws of the White Mountain Apache Tribe, corrections may be made to the official base roll subject to the approval of the Tribal Council and Secretary of the Interior. Errors apparent

on the record of the current membership roll shall not require Secretarial approval for correction.

(D) The Tribal Council shall furnish the superintendent of the Fort Apache Agency with a copy of any resolutions indicating approval or rejection of applicants for enrollment.

(E) An enrolled tribal member listed on the base roll who disagrees with his or her blood quantum listed therein may file an application to correct same by following the procedures in Chapters 4 and 5 of this ordinance. In any proceeding to change or correct the blood quantum on the base roll the burden of proof shall be on the applicant.

CHAPTER THREE
ENROLLMENT COMMITTEE AND DEPARTMENT

SECTION 1-301 APPOINTMENT OF ENROLLMENT COMMITTEE

(A) The Tribal Council shall by resolution establish an Enrollment Committee, appoint members and a Chairperson for the committee, and make such additional provisions concerning committee structure and function as are appropriate, consistent with this Ordinance.

(B) The Tribal Council by resolution shall establish an Enrollment Department vested with the powers and responsibilities set forth in this ordinance and shall make such other additional provisions concerning the Department as are deemed necessary.

SECTION 1-302 POWERS AND DUTIES OF ENROLLMENT COMMITTEE

(A) The Enrollment Committee shall have the authority to review all enrollment matters, including, but not limited to, eligibility for membership, dual enrollment and disenrollment.

(B) The Enrollment Committee shall render a written decision based on all information gained during the course of committee investigation in each enrollment matter presented for review.

(C) All enrollment matters which have been reviewed and decided by the Enrollment Committee shall be presented without undue delay to the Tribal Council.

(D) The Chairperson of the Enrollment Committee or the Director of the Enrollment Department shall be responsible for presentation of all enrollment matters to the Tribal Council.

SECTION 1-303 POWERS AND DUTIES OF ENROLLMENT DEPARTMENT

(A) The Enrollment department shall review, research and make written recommendations to the Enrollment Committee on the eligibility of applicants for membership or other enrollment matters. Recommendations concerning eligibility shall be based

solely upon the criteria contained in Section 1-201 of this ordinance.

(B) Recommendations made by the Enrollment Department shall be based on documents provided by the applicant or member and such other information as may be obtained by the Department in the normal course of inquiry concerning enrollment matters.

(C) The Enrollment Department shall be responsible for handling all written and oral communications relating to enrollment matters.

(D) The Enrollment Department shall be responsible for the maintenance of all enrollment records.

(E) The Enrollment Department shall be available to lend appropriate assistance to the Enrollment Committee in all enrollment matters.

(F) The Enrollment Department shall render a written decision based on all information gained during the course of its investigation in each enrollment matter presented for investigation and review.

(G) All enrollment matters which have been reviewed and decided by the Enrollment Department shall be presented without undue delay to the Enrollment Committee.

(H) The Chairperson of the Enrollment Committee or Director of Enrollment Department shall be responsible for presentation of all enrollment matters to the Tribal Council for final approval.

CHAPTER FOUR
APPLICATION FOR ENROLLMENT

SECTION 1-401 APPLICATION FORM: FILING

(A) Application for enrollment as a member of the White Mountain Apache Tribe shall be filed with the Enrollment Department in writing on a form approved by the Tribal Council.

(B) Application for enrollment may be made by any person on his or her own behalf or may be made by a sponsor on behalf of the following:

- (1) a minor;
- (2) a deceased person;
- (3) An incapacitated, incompetent or other person otherwise in need of assistance;

(4) a member of the Armed services or other service of the United States Government who is stationed outside the Continental United States;

(5) any person by a member of his or her immediate family.

SECTION 1-402 APPLICATION IDENTIFICATION NUMBER AND DATE

Upon receipt of an enrollment application, the Enrollment Department shall record the date of receipt and assign such application an identification number.

CHAPTER FIVE
PROCESSING OF APPLICATION

SECTION 1-501 REVIEW BY ENROLLMENT DEPARTMENT

(A) The Enrollment Department shall review each enrollment application, and shall, as appropriate, research, interview, and request in writing from the applicant, or any other interested person, any additional information deemed pertinent in establishing the enrollee's eligibility for membership. An applicant shall have the burden of coming forward with evidence supporting eligibility.

(B)--The Department shall, based upon its review, make a written recommendation concerning the eligibility of the application for enrollment, citing the reasons therefore.

(C) All applications received by the Enrollment Department and the Department's recommendation thereon shall be presented to the Enrollment Committee at the next regularly scheduled meeting after receipt of the application. An application received less than thirty (30) days prior to a regularly scheduled meeting may be presented at the next subsequent regularly scheduled meeting, provided that nothing herein shall prohibit a special enrollment committee meeting for such purposes.

(D) All applications received and approved by the Enrollment Committee shall be presented by the Enrollment Department to the Tribal Council for final approval.

SECTION 1-502 COMPILATIONS TO BE PREPARED BY ENROLLMENT DEPARTMENT; NOTICE TO APPLICANT

(A) The Enrollment Department shall compile two (2) lists, one specifying each applicant who was determined eligible for membership by the Department, the other specifying each applicant who was determined ineligible for membership by the Department. The director of the Enrollment Department shall without undue delay transmit each list to the Tribal Council in the form of proposed

resolutions and shall make available to the Tribal Council all application files. The Enrollment Department shall also maintain a list of persons who have relinquished membership in the Tribe.

(B) Notice of the Department's decision on eligibility shall be given to the applicant within three (3) working days of the date of the decision. The notice shall be on a form approved by the Tribal Council and shall state, at minimum, the decision of the Department, the basis for the decision, the fact that the Tribal Council makes the final determination of eligibility and that the applicant will be given reasonable opportunity to have a hearing before the Tribal Council, if requested by the applicant.

SECTION 1-503 ACTION BY TRIBAL COUNCIL

(A) The Tribal Council shall review and consider the proposed resolutions and files presented by the Director of the Enrollment Department. The Council shall approve or disapprove an application for enrollment by acting upon the proposed resolutions presented by the Director of the Enrollment Department.

(B) The decision to approve or disapprove an application for enrollment shall be subject to review as set forth in Chapter 8 of this ordinance.

SECTION 1-504 NOTICE TO APPLICANT

(A) Each applicant approved for enrollment by the Tribal Council shall be given written notice, on a form to be approved by the Tribal Council, indicating such approval, the authority for enrollment, the resolution number and the date of adoption.

(B) Upon determination by the Tribal Council that an applicant is not eligible for membership, the applicant shall be given written notice on a form to be approved by the Tribal Council, that the applicant failed to meet the Constitutional requirements for membership. The notice shall further advise the applicant of the review procedures set forth in Chapter 8 of this ordinance.

SECTION 1-505 PUBLICATION AND POSTING

Each resolution passed by the Tribal Council concerning the enrollment status of named individuals shall be published in a newspaper of general circulation on the White Mountain Apache Indian Reservation at least once (1) during the fifteen (15) day period following the date of passage of the resolution. The Enrollment Department shall certify to the Tribal Council the publication date and contents of the notice. Each such resolution shall be posted at the Tribal Office of Vital Records. Said

posting shall be made within five (5) days following date of passage of the resolution and shall be certified to the Tribal Council by the Enrollment Department.

CHAPTER SIX
DUAL ENROLLMENT

SECTION 1-601 DUAL ENROLLMENT PROHIBITED

Names of persons enrolled as members of any other tribes, bands or groups of Indians shall not be included on the Tribal membership roll.

SECTION 1-602 NOTICE OF DUAL ENROLLMENT; REQUEST FOR RELINQUISHMENT

(A) Any person found to be enrolled with the White Mountain Apache Tribe and any other tribe shall be notified in writing of such dual enrollment.

(B) Any person found to be dually enrolled shall be allowed sixty (60) days from the effective date of notice of dual enrollment to furnish the Enrollment Department with satisfactory proof of relinquishment or initiation of relinquishment of membership with any tribe other than the White Mountain Apache Tribe. Failure to furnish such proof within the allowed sixty (60) days will result in initiation of disenrollment proceedings pursuant to Chapter 7 of this Ordinance.

(C) Any person found to be enrolled with the White Mountain Apache Indian Tribe and any other tribe shall be immediately suspended by the Enrollment Committee from the membership roll of the White Mountain Apache Tribe pending final resolution of the dual enrollment issue. While suspended from the membership roll under this Section, no person shall be entitled to any privilege, right, interest, or claim based on membership in the White Mountain Apache Tribe.

CHAPTER SEVEN

REMOVAL FROM MEMBERSHIP

SECTION 1-701 REMOVAL

Any person may voluntarily or involuntarily have his or her name removed from the membership roll of the White Mountain Apache Tribe.

SECTION 1-702 RELINQUISHMENT

(A) Any person may voluntarily have his or her name removed from the membership roll of the White Mountain Apache Tribe by relinquishing membership in the White Mountain Apache Tribe.

(B) Relinquishment of membership shall be accomplished by submitting to the Enrollment Department either:

(1) a written statement evidencing an intent to no longer retain membership in the White Mountain Apache Tribe; or

(2) a statement of relinquishment on a form to be approved by the Tribal Council.

(C) Requests for relinquishment of membership shall be processed in the manner specified for enrollment applications in Chapter 5 of this Ordinance.

(D) In the case of a minor child under the age of eighteen years, the relinquishment statement must be signed by the guardian or both parents, if married, or if separated or divorced, by the parent given permanent custody of said child; provided, that if the minor child is fifteen years of age or older, and is otherwise competent, the child must also sign a statement of relinquishment required by Section 1-702 (B) (1) or (2).

(1) If a child fifteen years of age or older refuses or fails to sign a statement of relinquishment and is otherwise competent, and advises the Tribal Council, after being given the opportunity to be heard, of a desire to remain enrolled with the White Mountain Apache Tribe, the parents or guardians request to relinquish said child's enrollment shall not be granted unless the Tribal Council concludes that relinquishment would be in the best interest of the child.

(E) If an enrolled member over eighteen (18) years of age relinquishes membership in the White Mountain Apache Tribe, said person shall be prohibited from reenrollment in the Tribe; provided, however, that if the enrolled member was under eighteen (18) years of age at the time of relinquishment, said person may reapply for enrollment in the White Mountain Apache Tribe upon reaching the age of eighteen (18).

SECTION 1-703 EFFECT OF RELINQUISHMENT; FINALITY

(A) Once submitted to the Chairman of the White Mountain Apache Tribal Council and accepted by resolution of the Tribal Council, relinquishment of membership in the White Mountain Apache Tribe shall be total and irrevocable. No right of review shall exist.

(B) Any person whose membership in the White Mountain Apache Tribe is relinquished shall remove his or her livestock and all other personal property from the Fort Apache Indian Reservation within ninety (90) days after the resolution date accepting relinquishment of membership.

SECTION 1-704 DISENROLLMENT

(A) Any person may involuntarily have his or her name removed from the membership roll of the White Mountain Apache Tribe by disenrollment in accordance with the provisions of this Chapter.

(B) All disenrollment actions shall be brought by the Enrollment Department and may be commenced by request of any Tribal member or on the initiative of the Enrollment Department.

SECTION 1-705 GROUND FOR DISENROLLMENT

The grounds for disenrollment shall be:

(A) Dual enrollment as proscribed by Section 1-601 of this Ordinance.

(B) Enrollment based on false information, a forged document, or administrative error.

SECTION 1-706 NOTICE OF DISENROLLMENT

Any person who is the subject of a disenrollment action shall be notified of the pendency of such action and the facts alleged to support the action.

SECTION 1-707 DISENROLLMENT HEARING

A hearing before the Enrollment Committee shall be conducted in any disenrollment action.

SECTION 1-708 SCHEDULING OF DISENROLLMENT HEARING

(A) The notice required by Section 1-706 shall specify a hearing date and time not less than twenty (20) nor more than fifty (50) days after mailing of the notice unless the notice is mailed to an address outside the Continental United States, in which case the hearing date shall be set not less than fifty (50) nor more than sixty-five (65) days from the date of mailing.

(B) The Enrollment Committee Chairperson may reschedule a hearing upon a showing that circumstances exist which require an extension of time. Requests for extension of time shall be made to the Enrollment Department which shall immediately refer them to the Enrollment Committee. The Chairperson of the Enrollment Committee shall respond in writing to the request for extension of time within three (3) days of receipt of the request by the Enrollment Department.

SECTION 1-709 CONDUCT OF HEARING; BURDEN OF PROOF

(A) At the disenrollment committee hearing, the person who is the subject of the action shall have the right to present evidence, to be heard on his or her own behalf and to examine witnesses.

(B) The Enrollment Committee shall consider any matter or information relevant and material to the circumstances alleged to be grounds for disenrollment.

(C) The burden of proving grounds for disenrollment shall be on the party who initiated the disenrollment proceeding.

(D) All disenrollment hearings before the enrollment committee shall be either taped or recorded by a court reporter. A transcript of the hearing shall be prepared within ten (10) working days of completion of the hearing.

SECTION 1-710 DECISION OF ENROLLMENT COMMITTEE

(A) The Enrollment Committee shall consider the record and evidence presented at the hearing and shall by resolution decide the question of disenrollment.

(B) A decision on disenrollment shall be subject to review as set forth in Chapter 8 of this ordinance.

(C) The person that is the subject of a disenrollment action shall be notified of the disenrollment decision within three (3) working days after it is rendered.

CHAPTER EIGHT
REVIEW BY THE TRIBAL COUNCIL

SECTION 1-801 RIGHT OF REVIEW

Any affected or interested party shall be entitled to a review hearing before the Tribal Council with respect to any enrollment decision made by the Enrollment Committee or Enrollment Department, excluding acceptance of relinquishment.

SECTION 1-802 SCHEDULING OF REVIEW HEARING

(A) Each Notice of Rejection required to be served in accordance with Chapter 5 of this ordinance, shall specify a date and time for a review hearing before the Tribal Council of the issue of the applicant's eligibility for membership. The review hearing shall be conducted not less than thirty (30) nor more than sixty (60) days after the Notice of Rejection is mailed, unless the Notice of Rejection is mailed to an address outside the Continental United States, in which case the hearing shall be set not less than sixty (60) nor more than ninety (90) days from the date of mailing.

(B) Any person entitled to review of an enrollment decision, for which no review hearing date and time has been specified, may file with the Enrollment Department a written request for a review hearing on that decision. The Enrollment Department shall advise person of the right of review and all time deadlines. No hearing shall be set and the person shall be deemed to have waived any right to review of the enrollment decision unless the written request is received by the Enrollment Department no later than thirty (30) days after the date of mailing of notification of the decision, or not later than sixty (60) days after the date of the mailing, if the notification is mailed outside the Continental United States. Upon the timely filing of a written request, the Enrollment Department shall notify the Tribal Council. The Tribal Council shall conduct a review hearing not less than twenty (20) nor more than fifty (50) days after the date the request is received by the Enrollment Department. Notice of such hearing shall be served upon the petitioner, not less than ten (10) days prior to the hearing date.

(C) The Tribal Chairman may reschedule a review hearing upon a showing that circumstances exist which require an extension of time. Requests for extension of time shall be directed to the Enrollment Department, which shall immediately refer them to the Tribal Chairman. The Tribal Chairman shall respond in writing to a request for extension of time within three (3) days of receipt of the request by the Enrollment Department.

SECTION 1-803 SUPPORTING STATEMENTS AND DATA

(A) Each petitioner, other than the person who is the subject of an action, shall be required to specify in writing the reasons for challenge of an enrollment decision and shall submit all data in support thereof. Such written statement and data shall be submitted to the Enrollment Department no later than ten (10) days prior to the hearing date set.

(B) The Enrollment Department shall serve notice upon all affected parties of the filing of such written statement and supporting data and shall further advise of the availability of these materials for examination at the Enrollment Department.

(C) Any party may obtain a copy of the record prepared by the Enrollment Department at its own expense at copying rates established and set by the Enrollment Department.

SECTION 1-804 REVIEW RECORD

(A) Upon the setting of a time and date for a review hearing, the Enrollment Department shall transmit to the Tribal Council copies of the complete record pertaining to the enrollment decision.

(B) Review shall be limited to the record established and a petitioner shall not be allowed to submit any additional evidence or testimony other than oral argument unless such is newly discovered evidence which by due diligence could not have been discovered earlier or is being presented by a petitioner who had no opportunity to participate in the action prior to review.

(C) Petitioner may at his or her own expense be represented by an attorney or lay advocate at the review hearing before the Tribal Council.

SECTION 1-805 BURDEN OF PROOF

(A) In any action challenging eligibility or other enrollment decision, the burden of proof shall be on the petitioner.

(B) In any action challenging a decision of the Enrollment Committee or Enrollment Department to disenroll, the burden of proof shall be upon the White Mountain Apache Tribe.

SECTION 1-806 DECISION OF TRIBAL COUNCIL

(A) In reaching a decision, the Tribal Council shall consider the record presented, such additional evidence that is deemed admissible and any oral presentation or argument made.

(B) If evidence presented for the first time on review forms a basis for the decision reached, the Tribal Council shall so state.

(C) The Tribal Council shall issue findings of fact for each petition.

(D) The decision of the Tribal Council on review shall be final and conclusive.

(E) The petitioner and affected parties shall be notified of the review decision within three (3) working days after it is rendered.

CHAPTER NINE
PRIOR MEMBERSHIP ORDINANCES

SECTION 1-901 PRIOR MEMBERSHIP ORDINANCES AND ENROLLMENT COMMITTEES REPEALED AND EXTINGUISHED

All statutory provisions formerly enacted and all Enrollment committees and appointments regarding the subject matter of this ordinance are hereby repealed and abolished as the case may be. The provisions of this ordinance supersede all such formerly enacted sections. This ordinance is effective April 09, 1992.

CHAPTER TEN
SEVERABILITY

SECTION 1-1001 SEVERABILITY CLAUSE

The provisions of the White Mountain Apache membership ordinance shall be severable and if any phrase, clause, sentence or provision of the ordinance is found to be contrary to the White

Mountain Tribal Constitution, or declared to be in violation of applicable Federal law, or is held to be invalid, the validity of the remainder of this ordinance shall not be affected and shall remain in full force and effect.

The foregoing ordinance was on April 9, 1992, duly adopted by a vote of SIX in favor, ZERO opposed, by the Tribal Council of the White Mountain Apache Tribe of Arizona pursuant to authority vested in it by Article V, Section 1 (a), of the Constitution and By-laws of the White Mountain Apache Tribe of Arizona ratified by the Tribe on 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

APPROVED:


Superintendent, Bureau of Indian Affairs

DATE:

4/22/92