



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

(Amending Chapter Nine of the Government Code)

WHEREAS, pursuant to Article IV, Section 1(a) of the Constitution of the White Mountain Apache Tribe, *inter alia*, the Tribal Council has the authority to represent the Tribe and act in all matters that concern the welfare of the Tribe; and

WHEREAS, pursuant to Section 1.6 of the Government Code, the Code may be "amended by the adoption of ordinances by the Tribal Council"; and

WHEREAS, pursuant to Article XV, Section 2, of the Constitution of the White Mountain Apache Tribe, all proposed ordinances of the Council shall be posted in each district at least ten days before final action by the Council; and

WHEREAS, Ordinance No. 175 enacted Chapter Nine of the Government Code (October 3, 1991), which established the Permanent Trust Fund; and

WHEREAS, the Purpose of the Permanent Trust Fund is, *inter alia*, as follows:

" . . .to 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 dependent on outside sources for income" (*Government Code*, Section 9.1); and

WHEREAS, Section 9.6 of the Government Code, Investment Policy, provides for the management of investments of the monies in the Permanent Trust Fund as follows:

Section 9.6 Investment Policy.

- A. Permanent Trust Fund monies shall not be invested in the following:
- (1) Investments in Tribal entities other than loans permitted by this Section 9.6;
 - (2) Commodities;
 - (3) Options of Futures Contracts;
 - (4) Real Estate;
 - (5) Non-investment grade debt securities;

PUBLIC NOTICE

By Resolution 08-2008-187, entitled "Amending Chapter Nine of the Government Code," the Tribal Council proposes to amend Chapter Nine of the White Mountain Apache Tribe's Government Code, as follows:

1. Section 9.6. Section 9.6 shall be amended to permit loans from the Permanent Trust Fund to Tribal enterprises, which shall read as follows:

Section 9.6 Investment Policy.

- A. Permanent Trust Fund monies shall not be invested in the following:
 - (1) Investments in Tribal entities other than loans permitted by this Section 9.6;
 - (2) Commodities;
 - (3) Options of 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. Loans to Tribal Entities. Permanent Trust Fund monies may be loaned to Tribal entities in accordance with the following conditions:
 - (1) Payments of interest and principle of all loans shall be made directly to the Permanent Trust Fund.
 - (2) Interest charged on all loans shall be at or near market rates but in no event shall the nominal rate of interest be less than four and one half percent (4½%).
 - (3) Any other term or condition that the Tribal Council or its designee shall deem to be necessary, proper, necessary, proper, advisable, appropriate or convenient.
- C. Investment Policy and Management of Trust Funds. After the initial \$1 million dollar deposit is made by the Tribal Treasurer to

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- (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.

WHEREAS, Section 9.6(A)(1) thus proscribes any loans to or other investments in Tribal entities; and

WHEREAS, several of the Tribal entities have reported negative impacts on their operations from the Tribe's current cash flow problems and resultant difficulties in the Tribal entities obtaining credit on reasonable terms; and

WHEREAS, the Tribal Council has determined that it is in the best interests of the Tribe to permit loans from the Permanent Trust Fund to Tribal entities.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that:

1. A proposed ordinance amending Section 9.6 of the Government Code is hereby recommended by the Tribal Council, changing the provision proscribing loans to or other investments in Tribal entities and providing parameters from such loans, which shall read as follows:

Section 9.6 Investment Policy.

- A. Permanent Trust Fund monies shall not be invested in the following:
 - (1) Investments in Tribal entities other than loans permitted by this Section 9.6;
 - (2) Commodities;
 - (3) Options of Futures Contracts;
 - (4) Real Estate;
 - (5) Non-investment grade debt securities;

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- (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. Loans to Tribal Entities. Permanent Trust Fund monies may be loaned to Tribal entities in accordance with the following conditions:
- (1) Payments of interest and principle of all loans shall be made directly to the Permanent Trust Fund.
 - (2) Interest charged on all loans shall be at or near market rates but in no event shall the nominal rate of interest be less than four and one half percent (4½%).
 - (3) Any other term or condition that the Tribal Council or its designee shall deem to be necessary, proper, necessary, proper, advisable, appropriate or convenient.
- C. 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.
2. The Tribal Council Secretary is hereby directed to post the proposed ordinance amending Section 9.6 of the Government Code posted in each district at least ten days before final action by the Council. In addition, notices of the proposed ordinance shall be sent in the form of a press release to KNNB-FM and the Apache Scout.
3. Upon completion of the ten day posting period for the amendment proposed herein, the Tribal Council Secretary is further directed to report any public comments to the Tribal Council, and schedule a meeting thereof for final action.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Chairman, or in his absence, the Vice Chairwoman, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution.

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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.

Any comments about the proposed amendment should be sent to:

Cyndy Harvey, Tribal Council Secretary, Post Office Box 589, Whiteriver, Arizona, 85941,

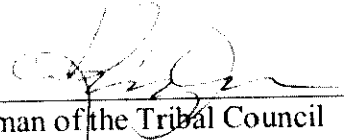
Or by facsimile to 928.338.1622,

Or by e-mail to charvey@wmat.us.

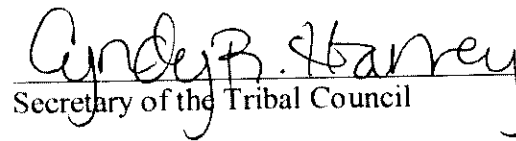
Please provide include your name, telephone number and address. The deadline for comments is Monday, September 1, 2008, at 5:00 p.m.

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The foregoing resolution was on **AUGUST 11, 2008** duly adopted by a vote of **NINE** for and **ZERO** against by the Tribal Council of the White Mountain Apache Tribe, pursuant to the authority vested in it by Article IV, Section 1 (a), (b), (s), (t), and (u) of the Constitution of the Tribe, ratified by the Tribe on September 30, 1993, and approved by the Secretary of the Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).



Chairman of the Tribal Council



Secretary of the Tribal Council