



WHITE MOUNTAIN APACHE TRIBE

*A Sovereign Nation Exercising Self-Governance
Over the Fort Apache Indian Reservation*

Resolution No. 07-2012-99

(Enactment of Ordinance No. 253, Amending Chapter Six of the Housing & Construction Code of the White Mountain Apache Tribe)

WHEREAS, the Tribal Council of the White Mountain Apache Tribe ("Tribe") is entrusted by the Tribe's Constitution to act in all matters that concern the welfare of the Tribe, to manage all economic affairs and enterprises of the Tribe, and to regulate subordinate organizations for economic and other purposes; and

WHEREAS, on May 4, 2012 the Legal Department presented proposed revisions to Chapter Six of the Housing & Construction Code for the White Mountain Apache Tribe as set forth in Ordinance No. 253, attached hereto and incorporated by reference; and

WHEREAS, Ordinance No. 253 proposes extensive changes to Chapter Six regarding the Housing Authority; and

WHEREAS, on June 5, 2012 Ordinance No. 253 was posted pursuant to Article XV of the Constitution of the White Mountain Apache Tribe, and since that time the Office of the Tribal Council Secretary has received no comments regarding the proposed changes; and

WHEREAS, the Council has reviewed Ordinance No. 253 carefully, and considered the recommendations and the implications thereof in great detail and finds the adoption of the Housing Authority section of the Housing & Construction Code to be in the best interest of the Tribe.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that proposed Ordinance No. 253, attached hereto and incorporated by reference, of the White Mountain Apache Housing & Construction Code, is hereby adopted.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event that this Resolution conflicts with a prior Resolution or Policy, this Resolution shall supersede and govern over the conflicting subject matter.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event this Resolution directly conflicts with the Tribal Constitution, Tribal Ordinances or Federal Laws, this Resolution shall be declared null and void and have no legal effect. This Resolution shall not be subject to Judicial Interpretation, only the Tribal Attorney, with the

assistance of the Tribal Council Secretary, may opine on Tribal Council intent and the meaning of the language as used herein.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Chairman, or in his absence, the Acting Chairman, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution. In the event that the Chairman fails to delegate signatory authority to an Acting Chairman, the Vice-Chairman may sign provided that the Tribal Secretary and a Tribal Attorney attest to the veracity of the subject matter of this Resolution.

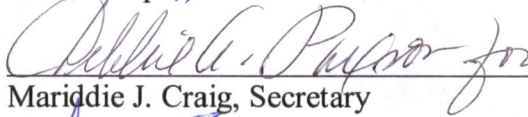
The foregoing resolution was on JULY 11, 2012 duly adopted by a vote of SIX for, ZERO against, and ONE abstention by the Tribal Council of the White Mountain Apache Tribe, pursuant to the authority vested in it by Article IV, Section 1 (a), (q), (s), (t) and (u) of the Tribal Constitution, ratified by the Tribe 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).



Ronnie Lupe, Chairman

7-23-12

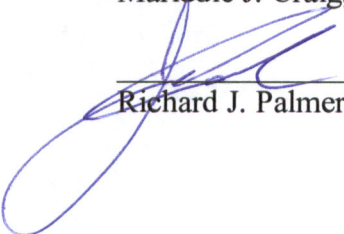
Date



Mariddie J. Craig, Secretary

7-23-12

Date



Richard J. Palmer, Jr., Attorney

7/24/12

Date

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

BE IT ENACTED BY THE COUNCIL OF THE WHITE MOUNTAIN APACHE TRIBE Ordinance No. 253, amending White Mountain Apache Housing & Construction Code to amend Chapter Six, as follows:

**CHAPTER SIX
HOUSING AUTHORITY**

[NOTE: Ordinance No. 45 and No. 45a were written but not enacted, (established the Housing Authority, but did not meet approval of the Federal Housing Authority or the Public Housing Administration, so both Ordinances were denied); Ordinance No. 47, enacted on January 16, 1963 (created the Charter for the Housing Authority published as Part 805 of the Federal Register, Vol. 41, No. 47, dated March 9, 1976); Ordinance No. 48, enacted January 16, 1963, (rescinded Ordinance No. 45a and established the Housing Authority); Ordinance No. 64, enacted January 7, 1965, (amended Ordinance No. 47 by adding financial provisions for low-rent housing and requiring cooperation with other housing agencies); Ordinance No. 102, enacted February 2, 1977, (rescinded Ordinance No. 47, 48 and 64 in their entirety); Ordinance No. 134, enacted June 1, 1983, (amended Ordinance No. 102 by adding Exclusive Tribal Court Jurisdiction); and Ordinance No. 253, enacted May 4, 2012, (amended Chapter Six in its entirety.)]

SECTION 6.1 HISTORY; EFFECTIVE DATES

A. ~~The Tribal Council of the White Mountain Apache Tribe on the 16th day of January, 1963, adopted Ordinance No. 47, which established the White Mountain Apache Housing Authority. That Ordinance and any amendments to it if there be any, are hereinafter called the "Original Ordinance". The Council now finds that it is in the best interest of the Housing Authority to amend the Ordinance by passing this ordinance [hereinafter called "Amendatory Ordinance"] in order for the Authority to be able to meet certain requirements necessary to qualify for additional financial assistance from the Federal Government, acting by and through the Department of Housing and Urban Development. These requirements have been published as Part 805 of the Federal Register, Vol. 41, No. 47, dated March 9, 1976.~~

B. ~~The Council hereby determines that all actions taken by the Housing Authority and all rights and obligations of the Housing Authority which have been established as a result of the Housing Authority's powers derived from the original Ordinance are not to be invalidated by the adoption of this Amendatory Ordinance and that this Amendatory Ordinance shall be controlling as to future actions, rights and obligations of the Housing Authority beginning with the effective hour and date specified below.~~

C. ~~The council hereby determines that it is necessary to provide for the orderly transition of the Housing Authority's operations under the Original Ordinance to~~

~~this Amendatory Ordinance in order that there be continuous uninterrupted authority for the actions of the Housing Authority. Therefore, this Ordinance is an emergency measure which is to become effective as of 10:01 a.m. on the 2nd day of February, 1977, and that all actions after that designated time shall be taken in accordance with, and pursuant to, the authority of this Amendatory Ordinance.~~

SECTION 6.21 CONSTITUTIONAL AUTHORITY

Pursuant to the authority vested in the White Mountain Apache Tribe by its Constitution, and particularly by Article V., Section 1 (a) (i) (n) thereof, and its authority to provide for the health, safety, morals and welfare, the Council of the White Mountain Apache Tribe hereby establishes a public body known as the White Mountain Apache Housing Authority (hereinafter referred to as the Authority, and enacts this Chapter which shall establish the purposes, powers and duties of the Authority.

SECTION 6.32 AUTHORIZATION OF HOUSING AUTHORITY TO TRANACT BUSINESS AND EXERCISE POWERS; PROOF

In any suit, action or proceedings involving the validity or enforcement of or relating to any of its contracts, the Authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers upon proof of the adoption of this Chapter. A copy of this Chapter duly certified by the Secretary of the Council shall be admissible in evidence in any suit, action or proceeding.

SECTION 6.43 DECLARATION OF NEED

A. That there exist within the area of the jurisdiction of this Council unsanitary, unsafe and overcrowded dwelling accommodations; that there is a shortage of decent, safe and sanitary dwelling accommodations available at rents or prices which persons of low income can afford; and that such shortage forces such persons to occupy unsanitary, unsafe and overcrowded dwelling accommodations.

B. That these conditions cause an increase in and spread of disease and crime and constitute a menace to health, safety, morals and welfare; and that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety protection, fire and accident prevention, and other public services and facilities;

C. That the shortage of decent, safe and sanitary dwellings for persons of low income cannot be relieved through the operation of private enterprise.

D. That the providing of decent, safe and sanitary dwelling accommodations for persons of low income are public uses and purposes for which money may be spent and private property acquired and are governmental functions of concern to this Council;

E. That residential construction activity and a supply of acceptable housing are important factors to general economic activity, and that the undertakings authorized by this Chapter to aid the production of better housing and more desirable neighborhood

and community development at lower costs will make possible or more stable and larger volume of residential construction and housing supply which will assist materially in achieving full employment.

F. The necessity in a public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

SECTION 6.54 **PURPOSES:**

The Authority shall be organized and operated for the purposes of:

- A. Remedying unsafe and insanitary housing conditions that are injurious to the public health, safety and morals;
- B. Alleviating the acute shortage of decent, safe and sanitary dwellings for persons of low income; and
- C. Providing employment opportunities through the construction, reconstruction, improvement, extension, alteration or repair and operation of low income dwellings.

SECTION 6.5 **APPLICABILITY**

Except as otherwise specifically stated herein, this Ordinance shall apply to any and all housing activities occurring on the Reservation pursuant to the NAHASDA Indian Housing Block Grant and/or other federal and/or Tribal programs as may be undertaken by the Board pursuant to approval of the Council. Such housing activities shall comply with all relevant and applicable laws and regulations including but not limited to federal and Tribal law.

SECTION 6.6 **DEFINITIONS**

~~The following terms, whenever used or referred to in this Chapter, shall have the following respective meanings, unless a different meaning clearly appears from the context:~~

- ~~A. "Area of Operation" means all areas within the jurisdiction of this Council.~~
- ~~B. "Board" means the Board of Commissioners of the Authority.~~
- ~~C. "Council" means the White Mountain Apache Tribal Council.~~
- ~~D. "Federal government" includes the United States of America, the Department of Housing and Urban Development, or any other agency or instrumentality, corporate or otherwise of the United States of America.~~

E. ~~“Homebuyer” means a person (s) who has executed a lease-purchase agreement with the Authority and who has not yet achieved home ownership.~~

F. ~~“Housing project” or “project” means any work or undertaking to provide or assist in providing (by any suitable method, including but not limited to: rental; sale of individual units in single or multifamily structures under conventional condominium, or cooperative sales contracts or lease-purchase agreements; loans, or subsidizing of rentals or charges) decent, safe and sanitary dwellings, apartments, or other living accommodations for persons of low income. Such work or undertaking may include buildings, land, leaseholds, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, for streets, sewers, water service, utilities, parks, site preparation or landscaping, and of administrative, community, health, recreational, welfare, or other purposes. The term “housing project” or “project” also may be applied to the planning of the buildings and improvements, the acquisition of property or any interest therein, the demolition of existing structures, the construction, reconstruction, rehabilitation, alteration or repair of the improvements or other property and all other work in connection therewith, and the term shall include all other real and personal property and all tangible or intangible assets held or sued in connection with the housing project.~~

G. ~~“Obligations” means any notes, bonds, interim certificates, debentures, or other forms of obligation issued by the Authority pursuant to this Chapter.~~

H. ~~“Obligee” includes any holder of an obligation, agent or trustee for any holder of an obligation, or lessor demising to the Authority property used in connection with a project, or any assignee or assignees of such lessor’s interest or any part thereof, and the Federal government when it is a party to any contract with the Authority in respect to a housing project.~~

I. ~~“Persons of low income” means persons or families who cannot afford to pay enough to cause private enterprise in their locality to build an adequate supply of decent, safe, and sanitary dwellings for their use.~~

SECTION 6.6 DEFINITIONS

Except as otherwise provided, the following definitions shall apply throughout this Ordinance:

A. ~~“Board” or Board of Commissioners” means the governing body of a TDHE.~~

B. ~~“Commissioner” means any member of the Board of Commissioners of a TDHE.~~

C. ~~“Council” means the White Mountain Apache Tribal Council;~~

D. ~~“NAHASDA” means the Native American Housing Assistance and Self Determination Act of 1996, as may be amended from time to time, 25 U.S.C. 1401 *et seq*;~~

E. "Ordinance" means this White Mountain Apache Tribe of the Fort Apache Reservation Ordinance for the Provision of Housing;

F. "Person" means an individual, trust, firm, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever;

G. "Reservation" means all lands and waters within the boundaries of the Tribe's territories, including without limitation all land, the title to which is held in trust by the United States for the benefit of the Tribe or an individual Indian, held by the Tribe or a Tribal Member subject to a restriction by the United States, or held in fee by the Tribe, and all other lands that may hereafter be acquired or conveyed in fee to the Tribe, held in trust for the benefit of the Tribe, or held by the Tribe subject to restrictions against alienation, whether by purchase, gift, act of Congress, or otherwise;

H. "TDHE" means the Tribally Designated Housing Entity that may be authorized from time to time by the Council to receive grant amounts under and to provide affordable housing services pursuant to NAHASDA, in this case, the White Mountain Apache Housing Authority (WMAHA);

I. "Tribe" means the White Mountain Apache Tribe of the Fort Apache Reservation; and

J. "Tribal Courts" means any or all of the courts established by the Tribe to enforce tribal law.

SECTION 6.7 BOARD OF COMMISSIONERS

A. The Board.

~~(1) The affairs of the Authority shall be managed by a Board of Commissioners composed of five persons.~~

~~(2) The Board members shall be appointed, and may be reappointed by the Council. A certificate of the Secretary of the Council as to the appointment or reappointment of any commissioner shall be conclusive evidence of the due and proper appointment of the commissioner.~~

~~(3) A commissioner may be a member or non-member of the Tribe, and may be a member of non-member of the Tribal Council.~~

~~(4) No person shall be barred from serving on the Board because he is a tenant or home buyer in a housing project of the Authority; and such commissioner shall be entitled to fully participate in all meetings concerning matters that affect all of the tenants or home buyers, even though such matters affect him as well. However, no such commissioner shall be entitled or permitted~~

to participate in or be present at any meeting (except in his capacity as a tenant or home buyer).

~~B. **Term of Office:** The term of office shall be four years and staggered. When the Board is first established, one member's term shall be designated to expire in one year, another to expire in two years, a third to expire in three years, and the last two in four years. Thereafter, all appointments shall be for four years, except that in the case of a prior vacancy, an appointment shall be only for the length of the unexpired term. Each member of the Board shall hold office until his successor has been appointed and has qualified.~~

~~C. **Board Chairman:** The Council shall name one of the Commissioners as Chairman of the Board. The Board shall elect from among its members a Vice-Chairman, Secretary, and a Treasurer; and any member may hold two of these positions. In the absence of the Chairman, the Vice-Chairman shall preside; and in the absence of both the Chairman and the Vice-Chairman, the Secretary shall preside.~~

~~D. **Removal of Board Member:** A member of the Board may be removed by the appointing power for serious inefficiency or neglect of duty or for misconduct in office, but only after a hearing before the appointing power and only after the member has been given a written notice of the specific charges against him at least 10 days prior to the hearing. At any such hearings, the member shall have the opportunity to be heard in person or by counsel and to present witnesses in his behalf. In the event of removal of any Board member, a record of the proceedings, together with the charges and findings thereon, shall be filed with the appointing power and a copy thereof sent to the appropriate office of the Department of Housing and Urban Development.~~

~~E. **Compensation:** The Commissioners shall not receive a compensation for their services but shall be entitled to compensation for expenses, including travel expenses, incurred in the discharge of their duties.~~

~~F. **Quorum:** A majority of the full Board (i.e., notwithstanding the existence of any vacancies) shall constitute a quorum for the transaction of business, but no Board action shall be taken by a vote of less than a majority of such full Board.~~

~~G. **Secretary:** The Secretary shall keep complete and accurate records of all meetings and actions taken by the Board.~~

~~H. **Treasurer:** The Treasurer shall keep full accurate financial records, make periodic reports to the Board, and submit a complete annual report, in written form, to the council as required by Section 7.10 of this Chapter.~~

~~I. **Meetings:** Meetings of the Board shall be held at regular intervals as provided in the bylaws. Emergency meetings may be held upon 24 hours actual notice and business transacted, provided that not less than a majority of the full Board concurs in the proposed action.~~

SECTION 6.7 **JURISDICTION**

The Tribal Courts shall have jurisdiction to construe this Ordinance and to hear and determine actions arising under it and occurring on or in relation to the lands and/or assets of the Tribe. The Tribe hereby declares that the powers of such Tribal Courts shall be vigorously used, and the Tribe will cooperate to the fullest extent possible to enforce eviction of a tenant or homebuyer for nonpayment or other contract violations.

SECTION 6.8 **POWERS; WAIVER OF IMMUNITY; CONSENT TO SUE AND BE SUED; TRIBAL COURT JURISDICTION**

A. ~~The Authority shall have perpetual succession in its corporate name.~~

B. ~~The Council hereby gives its irrevocable consent to allowing the Authority to sue and be sued in its corporate name, upon any contract, claim or obligation arising out of its activities under this Chapter and pursuant thereto, hereby authorizes the Authority to agree by contract to waive any immunity from suit which it might otherwise have; provided, however, that the Tribe shall not be liable for the debts or obligations of the Authority. The White Mountain Apache Tribal Court shall have exclusive jurisdiction of any suit against the Housing Authority upon any contract, claim, or obligation arising out of its activities under this Chapter.~~

C. ~~The Authority shall have the following powers which it may exercise consistent with the purposes for which it is established:~~

~~(1) To adopt and use a corporate seal.~~

~~(2) To enter into agreements, contracts, and understandings with any governmental agency, federal, state or local (including the council) or with any person, partnership, corporation or Indian tribe; and to agree to any conditions attached to Federal financial assistance.~~

~~(3) To agree, notwithstanding anything to the contrary contained in this Chapter or in any other provision of law, to any conditions attached to Federal financial assistance relating to the determination of prevailing salaries or wages or compliance with labor standards, in the development or operation of projects and the Authority may include in any contract let in connection with a project stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum salaries or wages and maximum hours of labor, and comply with any conditions which the Federal government may have attached to its financial aid to the project.~~

~~(4) To obligate itself, in any contract with the federal government for annual contributions to the Authority, to convey to the federal government possession of a title to the project to which such contract relates, upon the~~

~~occurrence of a substantial default (as defined in such contract) with respect to the covenants or conditions to which the Authority is subject; and such contract may further provide that in case of such conveyance, the federal government may complete, operate, manage, lease, convey or otherwise deal with the project and funds in accordance with the terms of such contract: provided, that the contract requires that, as soon as practicable after the federal government is satisfied that all defaults with respect to the project have been cured and that the project will thereafter be operated in accordance with the terms of the contract, the federal government shall reconvey to the Authority the project as then constituted.~~

~~(5) To lease property from the Tribe and others for such periods as are authorized by law, and to hold and manage or to sublease the same.~~

~~(6) To borrow or lend money, to issue temporary or long term evidence of indebtedness, and to repay the same. Obligations shall be issued and repaid in accordance with the provisions of Section 7.9 of this Chapter.~~

~~(7) To pledge the assets and receipts of the Authority as security for debts; and to acquire, sell, lease, exchange, transfer or assign personal property or interests therein.~~

~~(8) To purchase land or interests in land or take the same by gift; to lease land or interest in land to the extent provided by law.~~

~~(9) To undertake and carry out studies and analysis of housing needs, to prepare housing plans, to execute the same, to operate projects and to provide for the construction, reconstruction, improvements, extension, alteration or repair of any project or any part thereof.~~

~~(10) With respect to any dwellings, accommodations, lands, buildings or facilities embraced within any project (including individual cooperative or condominium units): to lease or rent, sell, enter into lease purchase agreements or leases with option to purchase; to establish and revise rents or required monthly payments; to make rules and regulations concerning the selection of tenants or home buyers, including the establishment of priorities, and concerning the occupancy, rental, care and management of housing units; and to make such further rules and regulations as the Board may deem necessary and desirable to effectuate the powers granted by this Chapter.~~

~~(11) To finance purchase of a home by an eligible home buyer in accordance with regulations and requirements of the Department of Housing and Urban Development.~~

~~(12) To terminate any lease or rental agreement or lease purchase agreement when the tenant or home buyer has violated the terms of such agreement, or failed to meet any of its obligations thereunder, or when such~~

~~termination is otherwise authorized under the provisions of such agreement; and to bring action for eviction against such tenant or home buyer.~~

~~(13) To establish income limits for admission that insure that dwelling accommodations in a housing project shall be made available only to persons of low income.~~

~~(14) To purchase insurance from any stock or mutual company for any property or against any risk or hazards.~~

~~(15) To invest such funds as are not required for immediate disbursement.~~

~~(16) To establish and maintain such bank accounts as may be necessary or convenient.~~

~~(17) To employ an executive director, technical and maintenance personnel and such other officials and employees, permanent or temporary, as the Authority may require; and to delegate to such officers and employees such powers or duties as the Board shall deem proper.~~

~~(18) To take such further actions as are commonly engaged in by public bodies of this character as the Board may deem necessary and desirable to effectuate the purposes of the Authority.~~

~~(19) To join or cooperate with any other public housing agency or agencies operating under the laws or ordinance of a state or another tribe in the exercise, either jointly or otherwise, of any or all of the powers of the Authority and such other public housing agency or agencies for the purpose of financing (including but not limited to the issuance of notes or planning, undertaking, owning, constructing, operating, or contracting with respect to a housing project or projects of the Authority or such other public housing agency or agencies. For such purpose, the Authority may by resolution prescribe and authorize any other public housing agency or agencies, so joining or cooperating with the Authority, to act on the Authority's behalf with respect to any or all powers, as the Authority's agent or otherwise, in the name of the Authority or in the name of such agency or agencies.~~

~~(20) To adopt such bylaws as the Board deems necessary and appropriate.~~

~~D. It is the purpose and intent of this Chapter to authorize the Authority to do any and all things necessary or desirable to secure the financial aid or cooperation of the Federal government in the undertaking, construction, maintenance or operation of any project by the Authority.~~

~~F. No ordinance or other enactment of the Tribe with respect to the acquisition, operation, or disposition of Tribal property shall be applicable to the Authority in its operations pursuant to this Chapter.~~

SECTION 6.8 SEVERABILITY

If any provisions of this Ordinance, or the application of any provision to any Person or circumstance, is held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable the remainder of this Ordinance and its application to any other Person or circumstances, and, to this end, the provisions of this Ordinance are severable.

SECTION 6.9 OBLIGATIONS

~~A. The Authority may issue obligations from time to time in its discretion for any of its purposes and may also issue refunding obligations for the purpose of paying or retiring obligations previously issued by it. The Authority may issue such types of obligations as it may determine, including obligations on which the principal and interest are payable: (1) exclusively from the income and revenues of the project financed with the proceeds of such obligations, or with such income or revenues together with a grant from the federal government in aid of such project; (2) exclusively from the income and revenues of certain designated projects whether or not they were financed in whole or in part with the proceeds of such obligations; or (3) from its revenues generally. Any of such obligations may be additionally secured by a pledge of any revenues of any project or other property of the Authority.~~

~~B. Neither the commissioners of the Authority nor any person executing the obligations shall be liable personally for the obligations by reason of issuance thereof.~~

~~C. The notes and other obligations of the Authority shall not be the debt of the Tribe and the obligations shall so state on their face.~~

~~D. Obligations of the Authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from taxes imposed by the Tribe. The tax exemption provisions of this Chapter shall be construed part of the security for the repayment of obligations and shall constitute, by virtue of this Chapter and without necessity of being restated in the obligations, a contract between (1) the Authority and the Tribe and (2) the holders of obligations and each of them including all transferees of the obligations from time to time.~~

~~E. Obligations shall be issued and sold in the following manner:~~

~~(1) Obligations of the Authority shall be authorized by a resolution adopted by the vote of a majority of the full Board and may be issued in one or more series.~~

~~(2) The obligations shall bear such dates, mature at such times, bear interest at such rates, be in such denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment and at such places, and be subject to such terms of redemption, with or without premium, as such resolution may provide.~~

~~(3) The obligations may be sold at public or private sale at not less than par.~~

~~(4) In case any of the commissioners of the Authority whose signatures appear on any obligations cease to be commissioners before the delivery of such obligations, the signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if the commissioners had remained in office until delivery.~~

~~F. Obligations of the Authority shall be fully negotiable. In any suit, action or proceeding involving the validity or enforceability of any obligations of the Authority or the security thereof, any such obligation reciting in substance that it has been issued by the authority to aid in financing a project pursuant to this Chapter shall be conclusively deemed to have been issued for such purpose, and the project for which such obligation was issued shall be conclusively deemed to have been planned, located and carried out in accordance with the purposes and provisions of this Chapter.~~

~~G. In connection with the issuance of obligations or incurring of obligations under leases and to secure the payment of such obligations, the Authority, subject to the limitations of this Chapter, may:~~

~~(1) Pledge all or any part of its gross or net rents, fees or revenues to which its right then exists or may thereafter come into existence.~~

~~(2) Provide for the powers and duties of obligees and limit their liabilities; and provide the terms and conditions on which such obligees may enforce any covenants or rights securing or relating to the obligations.~~

~~(3) Covenant against pledging all or any part of its rents, fees and revenues or against mortgaging any or all of its real or personal property to which its title or right then exists or may thereafter come into existence or permitting or suffering any lien on such revenues or property.~~

~~(4) Covenant with respect to limitations on its right to sell, lease or otherwise dispose of any project or any part thereof.~~

~~(5) Covenant as to what other or additional debts or obligations may be incurred by it.~~

~~(6) Covenant as to the obligations to be issued and as to the issuance of such obligations in escrow or otherwise, and as to the use and disposition of the proceeds thereof.~~

~~(7) Provide for the replacement of lost, destroyed or mutilated obligations.~~

~~(8) Covenant against extending the time for the payment of its obligations or interest thereon.~~

~~(9) Redeem the obligations and covenant for their redemption and provide the terms and conditions thereof.~~

~~(10) Covenant concerning the rents and fees to be charged in the operation of a project or projects, the amount to be raised each year or other period of time by rents, fees and other revenues, and as to the use and disposition to be made thereof.~~

~~(11) Create or authorize the creation of special funds for monies held for construction or operating costs, debt service, reserves or other purposes, and covenant as to the use and disposition of the monies held in such funds.~~

~~(12) Prescribe the procedure, if any, by which the terms of any contract with holders of obligations may be amended or abrogated, the proportion of outstanding obligations the holders of which must consent thereto, and the manner in which such consent may be given.~~

~~(13) Covenant as to the use, maintenance and replacement of its real or personal property, the insurance to be carried thereon and the use and disposition of insurance monies.~~

~~(14) Covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition or obligation.~~

~~(15) Covenant and prescribe as to events of default and terms and conditions upon which any or all of its obligations become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.~~

~~(16) Vest in any obligees or any proportion of them the right to enforce the payment of the obligations or any covenants securing or relating to the obligations.~~

~~(17) Exercise all or any part or combination of the powers granted in this section.~~

~~(18) Make covenants other than and in addition to the covenants expressly authorized in this section, of like or different character.~~

~~(19) Make any covenants and do any acts and things necessary or convenient or desirable in order to secure its obligations, or, in the absolute discretion of the Authority, tending to make the obligations more marketable although the covenants, acts or things are not enumerated in this section.~~

SECTION 6.9 **DESIGNATION OF TRIBALLY DESIGNATED HOUSING ENTITY**

A. The Council may, from time to time, as necessary, designate an entity as its TDHE for delivery of affordable housing services to eligible individuals under the provisions of NAHASDA.

B. The designation of a TDHE constitutes delegation by the Council to the TDHE of all powers that it may exercise consistent with the purposes of this Ordinance, including but not limited to the following:

1. to agree, notwithstanding anything to the contrary contained in this Ordinance or in any other provision of law, to comply with any applicable law relating to wage or labor standards, and to include such requirement in all contracts and subcontracts;

2. to sue and be sued in its name; *provided* that such powers do not require or obligate the Tribe or its TDHE under this Ordinance to waive its sovereign immunity, nor is the delegation of such power an actual waiver of such sovereign immunity; any waiver of the TDHE under this Ordinance is only to the extent and for the purposes set out in this Ordinance, and shall be valid only if clearly and unequivocally expressed in writing by resolution of the Board and limited to specifically stated obligations and liabilities;

3. to lease property for such periods as are authorized by law, and to hold and manage or to sublease the same;

4. with respect to any dwellings, accommodations, lands, buildings, or facilities embraced within any project (including individual cooperative or condominium units), to lease or rent, sell, enter into lease-purchase agreements or leases with option to purchase; to establish and revise rents or required monthly payments; to make rules and regulations concerning the selection of tenants or homebuyers, including the establishment of priorities, and concerning the occupancy, rental, care, and management of housing units; and to make such further rules and regulations as the TDHE may deem necessary and desirable to effectuate the powers granted by this Ordinance;

5. to finance the purchase of a home by an eligible homebuyer in accordance with regulations and requirements of the Department of Housing and Urban Development;

6. as authorized under NAHASDA or any other funding source, to provide affordable housing assistance including but not limited to assistance for rehabilitation, modernization, weatherization, homeownership counseling, rent, and down payment;

7. to terminate any lease or rental agreement or lease purchase agreement when the tenant or homebuyer has violated the terms of such agreement or failed to meet any of its obligations thereunder, or when such termination is otherwise authorized under the provisions of such agreement, and to bring action for eviction against such tenant or homebuyer;

8. to establish income limits for admission that insure that dwelling accommodations in a low-income housing project shall be made available only to persons of low-income, except as may be otherwise provided by NAHASDA;

9. to employ a director, technical and maintenance personnel, and such other officers and employees, permanent or temporary, as may be required, and to delegate to such officers and employees such powers or duties as the Board shall deem proper;

10. to draft policies and procedures for the issuance, in its discretion, of obligations for any of its purposes and for the issuance of refunding obligations for the purpose of paying or retiring obligations previously issued; and

11. to adopt such operating procedures, policies, and agreements as the Board deems necessary and appropriate.

SECTION 6.10 COUNCIL RIGHTS AND OBLIGATIONS

As long as this Ordinance remains in effect, the Council:

A. will not levy or impose any real or personal property taxes, gross receipts taxes, or special assessments upon its TDHE under this Ordinance, if any, or any project developed pursuant to the provisions of this Ordinance; provided however, to the extent they are imposed on all work undertaken on the Reservation, taxes imposed under a Tribal Employment Rights Ordinance may be assessed;

B. will furnish or cause to be furnished to its TDHE and the occupants of projects all services and facilities of the same character and to the same extent as the Tribe furnishes without cost or charge to other dwellings and inhabitants;

C. insofar as it may lawfully do so, will grant such deviations from any present or future building or housing codes of the Tribe as are reasonable and necessary to promote economy and efficiency in the development and operation of any project and make such changes in any zoning of the Reservation as is reasonable and necessary for the development and protection of affordable housing activities;

D. expects the TDHE and, when applicable, the Tribal Courts to handle all claims and grievances involving housing matters, following the proper administrative procedures; the Council will not insert itself into such matters unless and until such procedures have been fully exhausted; and

E. will do any and all things, within its lawful powers, necessary or convenient to aid and cooperate in the planning, undertaking, construction, or operation of projects.

SECTION 6.11 COOPERATION IN CONNECTION WITH PROJECTS

~~A. For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of projects, the Tribe hereby agrees that:~~

~~(a) It will not levy or impose any real or personal property taxes or special assessments upon the Authority or any project of the Authority.~~

~~(2) It will furnish or cause to be furnished to the Authority and the occupants of projects all services and facilities of the same character and to the same extent as the Tribe furnishes from time to time without cost or charge to other dwellings and inhabitants.~~

~~(3) Insofar as it may lawfully do so, it will grant such deviations from any present or future buildings or housing codes of the Tribe as are reasonable and necessary to promote economy and efficiency in the development and operation of any project, and at the same time safeguard health and safety, and make such changes in any zoning of the site and surrounding territory of any projects as are reasonable and necessary for the development and protection of such project, and the surrounding territory.~~

~~(4) It will do any and all things, within its lawful powers, necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of projects.~~

~~(5) The Tribal Government hereby declares that the powers of the Tribal Government shall be vigorously utilized to enforce eviction of a tenant or home buyer for nonpayment or other contract violations including action through the appropriate courts.~~

~~(6) The White Mountain Apache Tribal Court shall have jurisdiction to hear and determine an action for eviction of a tenant or home buyer. the tribal Government hereby declares that the powers of said Court shall be vigorously utilized and the Tribal government will cooperate to the fullest extent possible to enforce eviction of a tenant or home buyer of non-payment or other contract violations.~~

~~B. The provisions of this Sections shall remain in effect with respect to any project, and said provisions shall not be abrogated, changed, or modified without the consent of the Department of Housing and Urban Development, so long as (1) the project is owned by a public body or governmental agency and is used for low income housing purposes, (2) any contract between the Authority and the Department of Housing and Urban Development for loans for annual contributions, or both, in connection with such project, remains in force and effect, or (3) any obligations issued in connection with such project for any monies due to the Department of Housing and Urban Development in connection with such project remain unpaid, whichever period ends the latest. If at any time title to, or possession of, any project is held by any public body or governmental agency authorized by law to engage in the development or operation of low income housing, including the federal government, the provisions of this section shall insure to the benefit of and be enforced by such public body or governmental agency.~~

SECTION 6.11 BOARD QUALIFICATION AND APPOINTMENTS

A. Duties and Powers. If a TDHE is designated by the Council, its business and affairs shall be managed and governed by its Board of Commissioners. The Board may adopt such rules and regulations in the conduct of its meetings and its management as it deems proper, consistent with applicable law, the authorizing ordinances, and the relevant policy.

B. Qualifications of Commissioners. The Commissioners shall meet the following qualifications:

(1) Each Commissioner shall possess communication skills, experience, and expertise necessary to carry out the duties of a Commissioner and to contribute to the ability of the TDHE to achieve the purposes for which the TDHE was established.

(2) Each Commissioner shall possess at least two years experience in housing management, construction/modernization, business management, personnel, accounting, or housing inspections, or, in the alternative, he or she shall possess, at a minimum, an Associate or Bachelor's Degree in one of the following areas: Business, Health, Political Science, Building Trades, Human Services, or Social Services; provided however, Commissioners already sitting on the Board shall be exempt from this requirement.

(3) Prior to appointment to the Board, each prospective Commissioner shall submit to a background investigation.

(4) The majority of Commissioners shall be enrolled members of the Tribe.

(5) Commissioners shall not be employees of the TDHE.

(6) Commissioners shall not be members of the Council.

(7) When nominated and appointed, Commissioners shall not be past due on any payment owed to the TDHE, its predecessor entity, or the Tribe.

(8) A Commissioner cannot have been convicted of a felony offense or any other offense related to conversion of property or that would tend to reflect on his or her ability to manage finances. If, while in office, a Commissioner is charged with the commission of one or more of such offenses, he or she immediately shall be suspended from the Board and shall remain suspended until the charges are resolved. If the Commissioner is convicted of the offense or offenses charged, his or her appointment to the Board immediately and automatically shall be terminated.

(9) No person shall be barred from serving on the Board merely because he or she is a tenant or occupant in a housing project of the TDHE, and any such Commissioner shall be entitled to participate fully in all meetings concerning matters that affect all of such tenants or occupants, even though such matters may affect him or her as well. However, no such Commissioner shall be entitled or permitted to participate in or be present at any Board meeting (except in his or her capacity as a tenant or occupant), or to be counted or treated as a member of the Board, in discussing or resolving any matter involving his or her individual rights, obligations, or status as a tenant or occupant, and he or she is specifically prohibited for voting on any such matter.

C. Number; How Selected; Quorum.

(1) The Board shall consist of not less than five nor more than seven persons, all of whom shall be appointed by the Council.

(2) The initial Board shall consist of five persons.

(3) The majority of Commissioners then in office shall constitute a quorum.

D. Term of Office. One member of the initial Board shall be appointed by the Council to serve for a term of one year, one member of the initial Board to serve for a term of two years, one member of the initial Board to serve for a term of three years, and

two members of the initial Board each to serve for a term of four years. Each Commissioner appointed, or reappointed following the expiration of the initial terms set forth herein, shall serve for a term of four years and until his or her successor is duly elected and qualified.

E. Officers; Committees.

(1) By secret ballot, the Board shall select from its members a Chair, Vice-Chair, and Secretary, which officers may serve as the Board's Executive Committee and possess such rights and obligations as expressed in the TDHE's Policies.

(2) The Board, in its sole discretion, may establish additional committees as may be necessary for the efficient operation of the TDHE.

(3) The rights and obligations of such officers and committees may be expressed in the TDHE's policies.

F. Expenses; Stipend.

(1) Commissioners shall be entitled to reimbursement for actual expenses, including travel expenses, incurred in the discharge of their duties.

(2) In lieu of actual expenses, Commissioners may receive a reasonable stipend for attendance at meetings;

(a) Such stipend shall be in an amount to be determined by the Board by resolution, but shall not exceed \$1,000.00 per month; and

(b) No member of the Council shall be eligible to be paid a stipend.

G. Vacancies. All vacancies on the Board shall be filled for the unexpired portion of the term by the Council without undue delay, and the Council shall specifically note the ending date of the term being filled.

H. Removal of Commissioners. Any Commissioner may be removed for good cause by the Council. Also, the Board may request of its own accord removal of any Commissioner by the majority vote of the Board then in office. Good cause for removal shall include, but not be limited to dereliction of duty, negligence, malfeasance in office, violation of this Ordinance, other policies and procedures of the TDHE, Tribal laws and regulations, failure to attend three consecutive Board meetings without justification, or for other good cause shown.

~~With respect to any financial assistance contract between the Authority and the federal government, the Authority shall obtain the approval of the Secretary of the Interior or his designee.~~

SECTION 6.12 RATIFICATION OF PRIOR ACTS

The Council hereby determines that prior acts and actions taken by a TDHE to date shall not be invalidated by the adoption of this Ordinance, but this Ordinance shall be controlling as to future actions, rights, and obligations of the Tribe or its TDHE.

SECTION 6.13 AMENDMENT

A. If the Council has designated a TDHE, upon a majority vote of the Board, proposed amendments may be presented to the Council for adoption by resolution or objection.

B. This Ordinance may be amended by a resolution adopted by a majority vote of the Council.

SECTION 6.14 CONFLICTS WITH OTHER LAWS

If this Ordinance is determined to conflict with any other tribal law of general application, this Ordinance shall control.

SECTION 6.105 MISCELLANEOUS

A. The Authority shall submit an annual report, signed by the chairman of the board, to the Council showing: (1) a summary of the year's activities, (2) the financial condition of the properties, (3) the number of units and vacancies, (4) any significant problems and accomplishments, (5) plans for the future, and (6) such other information as the Authority or the Council shall deem pertinent.

B. During his tenure and for one year thereafter, no commissioner, officer or employee of the Authority, or any member of any governing body of the Tribe, or any other public official who exercises any responsibilities or functions with regard to the project, shall voluntarily acquire any interest, direct or indirect, in any project or in any property included or planned to be included in any project, or in any contract or proposed contract relating to any project, unless prior to such acquisition, he discloses his interest in writing to the Authority and such disclosure is entered upon the minutes of the Authority, and the commissioners, officer or employee shall not participate in any action by the Authority involuntarily acquires any such interest, or voluntarily or involuntarily acquired any such interest prior to appointment or employment as a commissioner, officer or employee, the commissioner, officer of employee, in any such event, shall immediately disclose his interest in writing to the Authority, and such disclosure shall be entered upon the minutes of the Authority, and the commissioner, officer or employee shall not participate in any action by the Authority relating to the property or contract in

which he has any such interest. Any violation of the foregoing provisions of this section shall constitute misconduct in office. This section shall not be applicable to the acquisition of any interest in obligations of the Authority issued in connection with any project, or to the execution of agreements by banking institutions for the deposit or handling of funds in connection with a project or to act as trustee under any trust indenture, or to utility services the rates for which are fixed or controlled by a governmental agency, or to membership on the Board.

C. Each project developed or operated under a contract providing for federal financial assistance shall be developed and operated in compliance with all requirements of such contract and applicable federal legislation, and with all regulations and requirements prescribed from time to time by the federal government in connection with such assistance.

D. The Authority shall obtain or provide for the obtaining of adequate fidelity bond coverage of its officers, agents, or employees handling cash or authorized to sign checks or certify vouchers.

E. The Authority shall not construct or operate any project for profit.

F. The property of the Authority is declared to be public property used for essential public and governmental purposes and such property and the Authority are exempt from all taxes and special assessments of the Tribe.

~~G. All property including funds acquired or held by the Authority pursuant to this Chapter shall be exempt from levy and sale by virtue of an execution, and not execution or other judicial process shall issue against the same nor shall any judgment against the Authority be a charge or lien upon such property. However, the provisions of this section shall not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by the Authority on its rents, fees or revenues or the right of the federal government to pursue any remedies conferred upon it pursuant to the provisions of this Chapter or the right of the Authority to bring eviction actions in accordance with Section 6.8 C(12).~~