



# WHITE MOUNTAIN APACHE TRIBE

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

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## **Resolution No. 05-2013-107**

### **(Approving Enactment of Ordinance No. 260, Amending Government Code Sections 9.4(C), 9.5(A), (B), (C) & (D), and 9.6(B)(1))**

- WHEREAS,** pursuant to Article IV, Section 1(q) of the Tribal Constitution and Section 1.6 of the Government Code, the Code may be “amended by the adoption of ordinances by the Tribal 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 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. Accordingly, a permanent trust fund is established as protection and security for the Tribe and its future generations.” (*Government Code*, Section 9.1); and
- WHEREAS,** on April 16, 2013 the Tribal Council authorized the posting of Ordinance No. 260, which contained proposed amendments to Sections 9.4(C), 9.5(A), (B), (C) & (D) and 9.6(B)(1) of the Tribal Government Code, as attached hereto and incorporated by reference; and
- WHEREAS,** Ordinance No. 260 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 Tribal Council has reviewed Ordinance No. 260 carefully, and considered the recommendations and implications thereof in great detail and finds the adoption of the amendments to the Government Code, as set forth in Ordinance No. 260, to be in the best interest of the White Mountain Apache Tribe.

**BE IT RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that Ordinance No. 260, attached hereto and incorporated by reference, which amends Sections 9.4(C), 9.5(A), (B), (C) & (D) and 9.6(B)(1) of the Government Code of the White Mountain Apache Tribe, 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.

**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.

The foregoing resolution was on MAY 16, 2013 duly adopted by a vote of SEVEN 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), (f), (h), (i), (q), (r), (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).

  
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Ronnie Lupe, Chairman

5/22/13  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Mariddie J. Craig, Secretary

05/22/2013  
\_\_\_\_\_  
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. 260, amending White Mountain Apache Government Code Sections 9.4(C), 9.5(A), (B), (C) & (D) and 9.6(B)(1), as follows:

**CHAPTER NINE  
PERMANENT TRUST FUND**

[NOTE: Chapter Nine is derived from Ordinance No. 175, enacted October 3, 1991; Ordinance No. 175, providing for the Permanent Trust Fund, was originally codified as Chapter Eight of the Government Code, however, due to a previous codification of Ordinance No. 163 as Chapter Eight of the Government Code, Ordinance No. 175 has been recodified as Chapter Nine; Chapter 9.5(B) and (C) were amended by Ordinance No. 233, enacted June 3, 2008; Chapter 9.6 was amended by Ordinance No. 235, enacted September 29, 2008; and Chapter 9.4(C), 9.5(A), (B), (C) & (D) and 9.6(B)(1) were amended by Ordinance No. 260, enacted May 16, 2013.]

**SECTION 9.4            INITIAL AND SUBSEQUENT DEPOSITS BY TRIBAL  
TREASURER**

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

**SECTION 9.5            CONTRIBUTION REQUIREMENT**

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

A.        Any change in the Contribution Requirement shall require a two-thirds (2/3) majority vote of the Tribal Council, provided that in no event shall the Annual

Contribution Requirement exceed twelve (12%) or be less than five (5%) percent or Two Hundred Thousand Dollars (\$200,000.00), whichever is greater.

B. The funds transferred by the Treasurer of the Tribe to the Permanent Trust Fund shall be retained by the Tribe, invested by direction of the Tribal Council and accumulated for the future welfare of the Tribe. Neither the principal of said fund nor the net investment income earned, including unrealized gains and losses on the investment securities or any other investments by said fund, shall be expended until April 30, 1996, except for expenses associated with administration of the fund; provided, however, that net investment income earned after April 30, 1996, but not any net investment income earned prior to such date nor the monies contributed to said fund at any time by the Tribe, may be expended, except as set forth in Section 9.5(D). Thereafter, all income from the Permanent Trust Fund after adjustment for inflation may be expended, but only by Tribal Council Resolution, pursuant to an approved budget.

C. Debt Obligations. Net investment income earned after the Sunset Date of April 30, 1996, may be pledged, assigned, or otherwise used as security or collateral, in whole or in part, for credit or debt obligations extended to the Tribe as may be required from time to time. Any credit or debt accommodation seeking to utilize such net investment income of the Permanent Trust Fund shall require the recommendation of the Tribe's Treasurer ~~and review thereof by the Tribe's Investment Committee and the Budget and Finance Committee~~, and approved a 2/3 majority vote of ~~by the~~ those present at a Tribal Council meeting at which a quorum is present.

D. Bond Financing or Refinancing Obligations. Net investment income earned after April 30, 1996, as well as the principal of the Permanent Trust Fund and the net investment income earned prior to April 30, 1996, including unrealized gains and losses on the investment securities or any other investments to said fund, may be pledged, assigned, or otherwise used as security or collateral, in whole or in part, for bond financing or refinancing, or other financing incurred for the purpose of repayment of other tribal indebtedness as may be required from time to time. Any bond financing, refinancing or line of credit increase seeking to utilize such principal, net investment income, or any other interest or investments of the Permanent Trust Fund shall require the recommendation of the Tribe's Treasurer and a 2/3 majority vote of those present at a Tribal Council meeting at which a quorum is present. ***NOTE: All provisions set forth above shall become effective May 15, 2013 and have a Sunset Date of June 1, 2014, after which time the provisions set forth in Section 9.5(D) shall no longer be valid and shall automatically be removed from the Government Code.***

## SECTION 9.6 INVESTMENT POLICY

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~~ principal of all loans shall be made directly to the Permanent Trust Fund.