

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

- WHEREAS, the Tribal Council on May 12, 1982 duly adopted Ordinance No. 127, which provides for the exclusion and removal of non-members from within the exterior boundaries of the Fort Apache Indian Reservation for violation of provisions set forth in Ordinance No. 127 and if they present a danger to the public health or safety of the people of the White Mountain Apache Tribe; and
- WHEREAS, the Tribal Council has been advised of the necessity to amend Ordinance No. 127 in order to facilitate the administration of said ordinance and to provide for additional important grounds for exclusion or removal of non-members from within the exterior boundaries of the Fort Apache Indian Reservation; and
- WHEREAS, the proposed amendment to Ordinance No. 127 is attached to this Resolution and incorporated by reference is satisfactory to the Tribal Council and must be publically posted for a period of ten (10) days as required by the Constitution and By-Laws of the White Mountain Apache Tribe for purposes of receiving public comment on the said proposed amendment to Ordinance No. 127.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the proposed amendment to Ordinance No. 127, which is attached hereto and incorporated hereto by reference herein shall be posted publically for a period of ten (10) days as required by the Constitution and By-Laws of the White Mountain Apache Tribe for purposes of receiving public comment on said proposed ordinance.

The foregoing resolution was on July 9, 1982 duly adopted by a vote of 10 for and 0 against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V, Section I (i & q) 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).

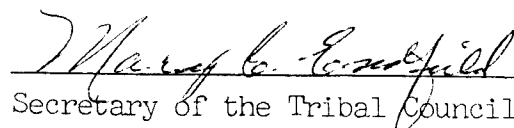
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FORT APACHE INDIAN
AGENCY
WHITERIVER



Chairman of the Tribal Council



Secretary of the Tribal Council

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

EXCLUSION AND REMOVAL OF
NON MEMBERS FROM TRIBAL LAND;
CLOSURE OF RESERVATION BY
EXECUTIVE ORDER

BE IT ENACTED by the Tribal Council of the White Mountain Apache Tribe that Ordinance No. 127; providing for the Exclusion and Removal of Non-Members of the White Mountain Apache Tribe is amended as follows:

§1001 CLOSURE OF ALL OR PART OF THE RESERVATION BY EXECUTIVE ORDER:

(a) The Chairman of the White Mountain Apache Tribal Council or, in his absence, the Vice-Chairman of the White Mountain Apache Tribal Council, is empowered to close any part or all of the Ft. Apache Indian Reservation to nonmembers whenever the presence of such nonmembers would constitute a danger to life or property. The exclusion order may permit certain named individuals (or classes of individuals) to remain and may provide for a procedure whereby individuals or classes of individuals may seek entry or reentry to closed areas. No such closure may continue for more than 30 days without concurrency by the White Mountain Apache Tribal Council by Council Resolution.

NON-MEMBERS; EXCLUSION OR REMOVAL

(b) A nonmember of the White Mountain Apache Tribe may be excluded or removed from the Ft. Apache Indian Reservation after a hearing and the entry of an exclusion or removal order, or, in cases involving danger to the public health or safety, pending such a hearing, an order of Tribal Judge of the White Mountain Apache

§1002 GROUND'S FOR EXCLUSION OR REMOVAL OF NONMEMBERS

An Order of Exclusion or Removal may be entered by the Tribal Court after a hearing except as provided in §1001(b) as follows:

(1) When the nonmember is accused of conduct within the Ft. Apache Indian Reservation which would be punishable under the laws of the White Mountain Apache Tribe or the United States, if committed by a member of the White Mountain Apache Tribe, and

(a) Such nonmember declines to give written consent to the jurisdiction of the Courts of the White Mountain Apache Tribe over such nonmember with respect to such conduct; and

(b) Such nonmember either admits such conduct in the removal or exclusion proceedings, or is found by a preponderance of the evidence in the exclusion or removal proceedings to have committed the act in question; or

(2) When the nonmember either admits in an exclusion or removal proceeding or is found by a preponderance of the evidence presented in an exclusion or removal proceeding to have engaged in any of the following acts:

(a) Unauthorized prospecting for petrified wood or artifacts, antiquities, wood collecting, timber cutting, surveying, damaging or using property of the White Mountain Apache Tribe or any resident thereof without permission, disturbing any gravesite, or conducting any scientific study of minerals, water, wildlife, vegetation, soil composition, or any sociological, or anthropological studies without Tribal Council permission; or

(b) Entry into any White Mountain Apache home without the consent of the occupants; or if consent is revoked, refusing thereafter to vacate the premises; or

(c) Interference with or unauthorized photographing

(f) Removal by a nonmember from the Ft. Apache Indian Reservation of any member of the White Mountain Apache Tribe under the age of 18, or under guardianship, except by Order of the Courts of the White Mountain Apache Tribe pursuant to and in compliance with the White Mountain Apache Indian Child Welfare Act Ordinance or in conjunction with a sectarian program administered by the White Mountain Apache Tribe or Bureau of Indian Affairs; or

(g) Violating any Federal or Tribal Game and Fish Regulations applicable within the exterior boundaries of the Ft. Apache Indian Reservation; or

(h) Committing frauds, confidence games, or usury against Apache people, or inducing them to enter into grossly unfavorable contracts of any nature; or

(i) Defrauding any Apache of just compensation for his labor or service of any nature done at the request of the nonmember; or

(j) Contagious disease; or

(k) Conducting missionary activities without a mission site permit or lease or resolution approving the same from the Tribal Council or a mission site on fee-patent land within the Reservation boundaries.

§1003 DURATION OF EXCLUSION

An exclusion or removal order entered by a Court of the White Mountain Apache Tribe shall either be for a definite period, or may, under appropriate circumstances, be permanent. A person excluded or removed may petition the Court for modification of an exclusion or removal order at any time after the order is entered but may not file a petition to modify more than once every three months.

§1004 COURT JURISDICTION

§1005 NOTICE OF EXCLUSION OR REMOVAL

The Chairman or in his absence, the Vice-Chairman, of the Tribal Council may petition the Tribal Court for a notice of exclusion or removal to be served personally or by registered mail upon any nonmember whenever either of such officers believes cause may exist for exclusion or removal of such nonmember, or whenever the Tribal Council orders either officer to cause such notice to be served. Such notice shall state the reason for the proposed exclusion or removal and shall name a time and place where the nonmember may appear before the Tribal Court to show cause why he should not be excluded from the exterior boundaries of the Reservation.

§1006 HEARING; ORDER OF EXCLUSION

(a) After notice to the person proposed for exclusion or removal, the Tribal Court shall hold a hearing no later than ten days thereafter to decide whether or not the nonmember shall be excluded from the exterior boundaries of the Reservation. Such nonmember shall be given an opportunity to present his defense at such hearing and may be represented by counsel.

(b) After hearing, or after the time set for such hearing, if after notice the person proposed for exclusion or removal does not appear, the Tribal Court may order that such person may remain upon the Ft. Apache Indian Reservation on such conditions as the Court sees fit to impose; or may order said person to leave or be removed from the Ft. Apache Indian Reservation. All orders of exclusion or removal shall remain in force until revoked by the Tribal Court, unless the order specifically provides otherwise.

(c) The Tribal Attorney or in his absence, the Tribal Prosecutor shall represent the Chairman of the Tribal Council or

promptly obey the order, the Chairman of the Tribal Council or, in his absence the Vice-Chairman of the Tribal Council, may petition the Tribal Court for appropriate enforcement action, or he may refer the matter directly to the United States Attorney; or both.

(b) Upon receipt of a Petition for Enforcement of the Tribal Court's previous Removal or Exclusion Order, the Tribal Court shall immediately order the White Mountain Apache Tribal Police or Tribal Game Rangers to remove the nonmember and/or any property of such nonmember bodily from within the exterior boundaries of the Ft. Apache Indian Reservation. The Policeman or Game Ranger executing such order shall use only so much force as is necessary to effect the removal or exclusion.

§1008 FORCIBLE REMOVAL OF PERSONS AND PROPERTY PRIOR TO HEARING

(a) In extreme cases involving grave danger to the life, health, morals, or property of the Tribe or any of its members, the Chairman of the Tribal Council, or in his absence from the Reservation, the Vice-Chairman may petition the Tribal Court, without notice, for an order directing any White Mountain Apache Policeman or Game Ranger to remove a nonmember and/or any property of such nonmember bodily from Tribal land, before such person has been ordered excluded by the Tribal Court as provided in §1006(b). The Policeman or Game Ranger executing such order shall use only so much force as is necessary to effect the removal.

(b) If service of the notice provided for in §1005 has not already been made on such person, the Court shall cause the Policeman or Game Ranger to serve such notice upon the person at the time of removal, or he shall cause the notice to be served as soon after removal as possible.

(c) In all cases where the person has not already

coming and leaving his hearing.

(d) Any nonmember ordered by the Tribal Court to leave the Reservation, pursuant to §1001(b), §1006(b), §1007(b), or §1008(a), may be delivered to the custody of state or federal authorities for prosecution.

The foregoing proposed Ordinance No. _____ was on _____ duly enacted by a vote of _____ for and _____ against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V. Section I (1 & 1) 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

APPROVED:

Henry A. Dodge, Superintendent
Fort Apache Agency
Whiteriver, Arizona