

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

WHEREAS, the Tribal Council of the White Mountain Apache Tribe has not previously enacted a Private Junkyard Ordinance to prohibit the operation of a private junkyard on the reservation without a license and proof of ownership of vehicles, and to provide sanctions for violations of the ordinance, and

WHEREAS, the operation of private junkyards without tribal permission and proof of ownership promotes illegal activities and the unsightly cluttering of tribal lands, and

WHEREAS, the Tribal Council has approved the form and content of the Proposed Ordinance attached hereto.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Proposed Ordinance is hereby approved and that it be posted for ten (10) days on the Fort Apache Indian Reservation as required by the White Mountain Apache Tribal Constitution and By-Laws, as amended.


The foregoing resolution was on September 07, 1983 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 1 (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).

RECEIVED
SEP 12 1983

FORT APACHE INDIAN
AGENCY
WHITERIVER, ARIZ



Chairman of the Tribal Council



Secretary of the Tribal Council

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

An ordinance prohibiting the storage of greater than four inoperable motor vehicles in private yards on the Fort Apache Indian Reservation without a permit to operate a private junkyard business, and requiring proof of ownership of each vehicle to be shown.

BE IT HEREBY ENACTED by the Tribal Council of the White Mountain Apache Tribe that Ordinance known as the Private Junkyard Ordinance is enacted as follows:

Section I: The short title of this ordinance shall be the Private Junkyard Ordinance.

Section II: Purpose:

The purpose of this ordinance is to eliminate private junkyards unless both a permit to do business and proof of ownership of all motor vehicles can be shown, to clean up the reservation by eliminating unsightly private junkyards and old and inoperable motor vehicles, and to require proof of ownership to be shown for each car stored in a private junkyard.

Section III: This ordinance is to be liberally construed so as to effect its objects and to promote justice.

Section IV: Saving Clause:

This ordinance does not affect the rights and duties that matured, penalties that were incurred and proceedings that were commenced before its effective date.

Section V: Definitions:

(a) inoperable motor vehicle: any automobile, truck, bus, motorcycle or other vehicle which is normally operated by a motor, but is, for some reason, disabled and cannot be used for its normal purpose without repairs.

(b) permit or license to do business: a document issued by the Tribal Business office authorizing the operation of a business establishment upon the reservation.

(c) private junkyard: any yard, lawn, lot allotment, farm camp, homesite, or other area within the reservation upon which sits more than four inoperable motor vehicles.

(d) private junkyard owner/operator: anyone who supervises, maintains, or resides as tenant, owner, or squatter

on the premises of a private junkyard.

(e) non-private junkyard: Any junkyard business which is located in an area designated for business activity but excluding private yards and residential areas which are used as a private junkyard.

(f) private yard: Any area which is not designated as a public business area.

(g) proof of ownership: Any documents such as a title or bill of sale which indicates the rightful and legal owner of a motor vehicle.

(h) squatter: Anyone residing on the reservation without permission.

Section VI: Scope:

This ordinance shall apply to all private junkyards and to all private junkyard owners/operators located within the exterior boundaries of the Fort Apache Indian Reservation whether they reside on the reservation legally or illegally.

Section VII: Any private yard which has greater than four inoperable motor vehicles located thereon is presumed to be a private junkyard; and the owner/operator is required to obtain a permit or license to do business as a private junkyard owner/operator and to show proof of ownership for each and every inoperable motor vehicle parked in the junkyard's vicinity.

(b) Upon locating a private junkyard, the Tribal police shall investigate to determine if the private junkyard owner/operator can show that he/she has a current valid license to operate this type of business and if he/she can show proof of ownership for each and every inoperable motor vehicle located in the private junkyard.

(c) Failure to obtain a permit or license to do business as a private junkyard owner/operator from the White Mountain Apache Tribe constitutes a violation of this ordinance.

(d) Failure to show proof of ownership, upon demand by the Tribal police, of each and every inoperable motor vehicle parked within a private junkyard constitutes a violation of this ordinance.

(e) Any violation of this ordinance subjects the violator to civil fees, fines and/or punishment set forth in the following sections. A violation shall be sufficient cause for the issuance of a citation by the Tribal Police.

(f) Once a Tribal Police Officer has cited a person for a violation of this ordinance, a court hearing shall be set within ten (10) working days from the date of the citation.

Section VIII: Permit to do business.

(a) Any person engaging in the ownership or operation of a private junkyard on the reservation must obtain a permit/license prior to ownership and operation of such a business from the White Mountain Apache Tribe.

(b) The license to do business as a private junkyard shall be the same as that for other reservation businesses as provided by tribal law, but shall be an annual license and shall include a surcharge for the use of private yards in a business. This surcharge shall be set at \$300 for the initial year, and an additional \$75.00 for each year of license renewal. The licenses shall incorporate all rules and regulations set forth for businesses located upon the reservation. A separate ground lease shall be required for all non-tribal members, and must be approved by the Tribal Council prior to obtaining a private junkyard license.

Section IX: Failure to show ownership.

Failure to show proof of ownership, as described herein, shall raise a rebuttable presumption that the vehicle has been abandoned or taken without permission with an intent to deprive the owner of its possession permanently. Such presumption shall be cause to initiate a federal and/or tribal investigation regarding the origin of the vehicles.

Section X: Notification and Right to Hearing and Rebuttal.

(a) Any person who is cited under this ordinance shall have the right to appear at the Tribal Court hearing to refute the charges made by the Tribal Police Officer.

(b) Notice of the hearing shall be printed on the citation; and the notice shall state:

- (1) that a hearing must be set within ten days of the date on which the citation was issued; and
- (2) the specific court date as denoted in the space provided. The officer shall write the court date on the citation at the time he/she issues the citation.

(c) The defendant has the right to appear with his/her legal counsel to answer the charges made by the Tribal Police on that hearing date.

Section XI: Court Action

(a) Any violator of this ordinance, who is adjudicated and found guilty by the Tribal Court for a violation of this ordinance, shall be fined an amount of \$500 dollars and/or

imprisoned for a period not exceeding 60 days or both if he/she is a tribal member; non-members shall be charged a restitution fee of \$500 plus all expenses incurred for case investigation, court costs, and removal of the vehicles from the junkyard to a location outside of the reservation.

(b) An adjudication of guilt for a violation under this ordinance shall constitute sufficient cause for the Tribal Court to order the immediate removal of all inoperable motor vehicles from the site of the private yard to a location outside of the exterior boundaries of the Fort Apache Indian Reservation.

Section XII: Order to Remove.

(a) An order to remove all inoperable motor vehicles in violation of this ordinance may be requested by Tribal Police or the Tribal Prosecutor.

(b) An order to remove shall be issued by the Tribal Court and shall give the violator 20 days from the entry of the order within which he/she must remove all inoperable motor vehicles at the site of the private junkyard to an area outside of the reservation.

(c) The failure to remove these vehicles within the specified time shall constitute a repeated violation of this ordinance and the Tribal Law and Order Code as amended; and shall subject the violator to further legal proceedings for contempt of court and all other pertinent violations of the Tribal Law and Order Code, as amended, without the necessity of issuing a second citation.

(d) In any case where the vehicles are not removed from the reservation within the specified time period, the Tribe may order the vehicles' removal by towing or any other means at the sole expense of the violator.

Section XIII: Jurisdiction:

The White Mountain Apache Tribe shall have exclusive jurisdiction for the adjudication of all violations under this ordinance.

Section XIV: Nothing in this ordinance constitutes consent by the White Mountain Apache Tribe, its sub-organizations, or any agent thereof to be sued in any Court. This ordinance does not represent a waiver of the White Mountain Apache Tribe's sovereign immunity for any purpose.

Section IV: Effective Date:

This Ordinance shall be prospectively applied beginning _____, 1983.

Section XVI: Severability Clause:

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are severable.

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

- WHEREAS, through the Tribal Chairman's memorandum of May 26, 1983, and Council Resolution No. 83-234 of July 26, 1983 (both documents attached hereto), the White Mountain Apache Tribe is undertaking intensive long-range development of an integrated on-line computerized management and financial control system, and
- WHEREAS, the initial phases of this long-term program require that the existing computer software programs be substantially re-designed and/or replaced in order to support a sound development and expansion into the more sophisticated and cost-effective applications required by the rapidly growing Reservation economy and population, and
- WHEREAS, intensive investigation and analysis over the past six months has narrowed the potentially useful software systems and designs down to three; the time and dollars required for full adaptation of the respective systems having been carefully evaluated against the Tribe's resources and needs, and
- WHEREAS, the conclusion from the said investigation and analysis is that the software package of the Jicarilla Apache Tribe (JAT) is the most adaptable and cost-effective of those examined, and can become fully operational for the Tribal fiscal management system in the shortest time, and
- WHEREAS, the adaptation and installation of the selected software system will require approximately \$60,000.00 to bring the entire integrated system to on-line operational status, per attached budget, and
- WHEREAS, the Finance Committee was given a detailed review and explanation of all aspects of the Computer system development program and has concurred in the funding required to implement it, and
- WHEREAS, the Tribal Council has reviewed and discussed for approval the Software License Agreement attached hereto and incorporated by reference covering acquisition of the Software System from Jicarillo Apache Tribe.
- BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby approves an amendment to the Tribal Capital Budget for FY 1983/84 to provide up to \$60,000.00 for the purposes outlined above.
- BE IT FURTHER RESOLVED that the SOFTWARE LICENSE AGREEMENT (attached to and made a part hereof) covering acquisition of the software system from Jicarillo Apache Tribe be hereby approved; and that the Tribal Chairman be authorized to negotiate same.
- BE IT FURTHER RESOLVED that the Computer Operations Department of the Administrative Office be directed to expedite the procurement and installation of an integrated system so as to implement full capability within this fiscal year 1983/84.

The foregoing resolution was on September 13, 1983 duly adopted by a vote of 6 for and 0 against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V, Section 1 (i & k) 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

Resolution No. 83-284