

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

WHEREAS, a proposed amendment to Ordinance No. 136 of the White Mountain Apache Tribe, known as the Utility Notice and Hearing Ordinance, has been posted for more than a period of ten (10) days as required by the Constitution and By-Laws of the White Mountain Apache Tribe, and

WHEREAS, the Tribal Council has not received any opposition to final passage to the proposed amendment, and

WHEREAS, the Tribal Council concludes that final passage of the proposed amendment would be in the best interests and welfare of the White Mountain Apache Tribe.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby enacts the amendment to Ordinance No. 136 of the White Mountain Apache Tribe, known as the Utility Notice and Hearing Ordinance, and hereby designated the amendment as Ordinance No. 144 in the form attached hereto.

BE IT FURTHER RESOLVED by the Tribal Council that said ordinance shall be effective this date.

The foregoing ORDINANCE was on April 18, 1984 duly enacted by a vote of 8 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 (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  
APR 27 1984  
FORT APACHE INDIAN  
RESERVATION  
WHITE MOUNTAIN, ARIZ.

  
\_\_\_\_\_  
Chairman of the Tribal Council

  
\_\_\_\_\_  
Secretary of the Tribal Council

ORDINANCE NO. 144

AMENDMENT TO  
ORDINANCE 136 OF THE  
WHITE MOUNTAIN APACHE TRIBE

An amendment to 136 providing procedures to be used by the Tribal Utility Authority before it disconnects a customer's water and sewer service, clarifying hearing procedure, appointment of a Utility Grievance Committee, and imposing penalties upon the Authority for failure to implement these procedures; repeal of Ordinance 136.

BE IT HEREBY ENACTED by the Tribal Council of the White Mountain Apache Tribe that an amendment to Ordinance No. 136 is hereby proposed as follows:

Section 1: Short Title:

This act may be cited as "The Utility Notice and Hearing Ordinance".

Section 2: Declaration of Purpose:

The declared purpose of this ordinance is (1) to require the Utility Authority to provide notice to customers that their utility account is delinquent and their services are subject to disconnection unless the account is paid by a specified date; (2) to provide an opportunity for the customer to be heard before a Utility Grievance Committee so that the customer may show just cause as to why his/her utility services should not be disconnected; (3) to provide for emergency situations where a customer is unable to appear before the disconnection date; and (4) to provide penalties against the Utility Authority for failure to provide proper notice and a grievance procedure to a customer.

Section 3: This ordinance shall be liberally construed to effect its objects and to promote justice.

Section 4: Definitions:

(a) conspicuous print: Lettering which is in clear black form, positioned so that a customer may find it, and large enough to be easily seen.

(b) disconnection notice: A warning mailed at the end of the 15 day payment period to pay the monthly bill which notifies a customer that he/she has 10 days from the post-marked mailing date to either pay the bill or file a timely appeal. It is mailed separately from the monthly bill.

(c) emergency: Any unexpected situation which suddenly arises and necessitates the immediate departure of the customer to a place other than the Fort Apache Indian Reservation so as to prevent the customer from making arrangements for timely payment of his/her monthly bill.

(d) just cause: Any reason designated by the Grievance Committee as one justifying a reasonable person not to pay his/her utility bill on time. Guidelines for determining "just cause" will be prepared by the Grievance Committee.

(e) utility billing card: The monthly statement reflecting the amount due for services rendered by the Authority; the type and amount of services rendered; the due date; the debtor's name and address; creditor's name, address, and telephone number; the Utility collection policy, and notification to the customer of his/her right to an appeal.

(f) Utility Grievance Committee: The committee of three individuals appointed by the Tribal Council who will hear appeals and issue directives regarding a matter which has been appealed.

(g) working days: Any regular day of business Monday through Friday, not including weekends and holidays.

#### Section 5: Saving Clause:

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

#### Section 6: Jurisdiction:

The White Mountain Apache Tribal Court shall have exclusive jurisdiction over all legal proceedings arising out of this ordinance after administrative procedures before the Utility Authority have been exhausted.

Section 7: Collection Policy; Notification; Notice of Right to Appeal; Disconnection Notification:

(a) A collection policy notification and notice of right of appeal shall appear on the reverse side of each utility billing card. This notification shall be printed conspicuously in plain English. The notification shall read as follow:

COLLECTION POLICY

All bills are due and payable upon receipt. They are past due 15 days after the statement date. If payment is not received within 10 days after the past due date; the bill is delinquent and your water and sewer service may be disconnected. If you need to make payment arrangements on your account call 338-4825.

(b) Notice of the right to an Appeal shall be printed below the collection policy notification on each billing card. This notice shall be conspicuously printed and state:

RIGHT TO APPEAL

If you are dissatisfied with the results obtained by an investigation of your bill or service complaint by utility personnel, you have a right to appeal to:

Utility Grievance Committee  
Utility Authority  
P.O. Box 517  
Whiteriver, Arizona 85941  
(602) 338-4825

You have two working days from receipt of a disconnection notice to file an appeal.

Section 8: Disconnection Notice

(a) If a customer does not pay his/her bill within the twenty-five (25) days specified in the monthly bill, a second notice shall be issued to the customer by the Utility Authority. This notice is the disconnection notice and shall give the customer ten days from the postmarked date to

contact the Utility Authority regarding payments or to pay the bill for utilities. The notice shall specify the amount due and the time allowed for the customer to pay the entire bill or to make arrangements with the Authority.

(b) No water or sewer service provided by the Utility Authority shall be disconnected and/or discontinued if the notices described in section 7(a) and (b) and section 8(a) have not been issued to the customer.

Section 9: Right to Hearing, Procedures, Utility Grievance Committee, Decisions

(a) Any customer, who wants to show just cause as to why his/her services should not be disconnected, may request a hearing of the Utility Grievance Committee by contacting the Utility Authority within 2 working days after receipt of disconnection notice.

(b) Disconnection of services shall not occur until there is a final resolution of the matter by the grievance committee.

(c) Once a request for hearing has been filed with the Utility Authority, a date shall be set for a hearing. The hearing shall be held within 5 working days from the date of request.

(d) A Utility Grievance Committee shall hear the matter to determine if the customer has shown just cause as to why his water and sewer service should not be suspended. If just cause is shown, the committee shall issue a directive to the Utility Authority on how to resolve the bill. If a further dispute exists on behalf of the Utility Authority, the matter may be pursued by either party in the Tribal Court for resolution. Services shall not be suspended during this appellate period.

(e) The Utility Grievance Committee shall consist of three members appointed by the Tribal Council and shall be appointed for a term of 2 years each. Committee members shall be granted administrative leave for the time they are in committee session.

Section 10: Emergency Provision

Whenever a customer has been called away on an emergency outside the exterior boundaries of the Fort Apache Indian Reservation, said emergency shall constitute just cause not to disconnect his/her water and sewer services. The

customer shall inform the Authority of this emergency verbally prior to departure and in writing at the commencement of any Utility Grievance Committee proceedings. Reasonable arrangements for payment of his/her bill shall be made upon his/her return from the emergency. Service shall not be disconnected pending his/her return to the reservation.

Section 11: Penalty for Failure to Comply with Ordinance

(a) Where the Utility Authority disconnects service without issuing the notices required by Sections 7(a) and (b) and 8(a) and/or without justifiable cause, the Utility Authority shall be liable for treble damages to the customer unless the lessor, their agents, and landlords of the customer have made the request for disconnection. Treble damages shall be based upon three times the sum of the cost of resumption of services and the amount of the bill outstanding at the time of the disconnection.

Section 12: This ordinance shall not constitute consent by the White Mountain Apache Tribe, its sub-organizations, or any agent thereof to be sued in any Court. This Ordinance does not constitute a waiver of the sovereign immunity of the White Mountain Apache Tribe for any purpose.

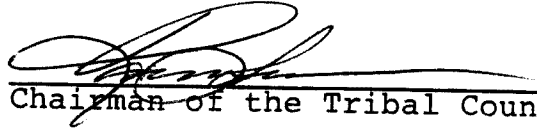
Section 13: Severability Clause:

If any provisions 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 ordinance which can be given effect without the invalid provisions or application, and to this end the provisions of this ordinance are severable.

Section 14: Repeal of Ordinance No. 136

Ordinance No. 136 is hereby repealed.

The foregoing Ordinance was on April 18, 1984, duly enacted by a vote of 8 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) 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 19, 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:

Superintendent  
Fort Apache Indian Agency  
Whiteriver, Arizona

ORDINANCE NO. 144