

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

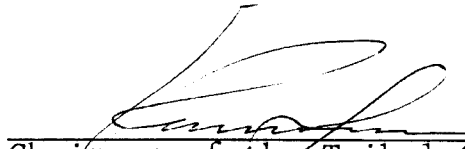
WHEREAS, the Tribal Council pursuant to prior resolution enacted proposed Ordinance No. 123 entitled White Mountain Apache Tribe Minimum Wage Ordinance, and

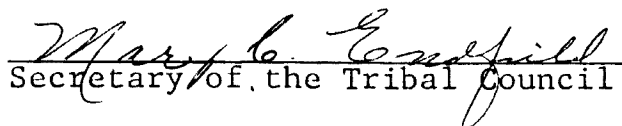
WHEREAS, pursuant to the Amended Constitution and By-Laws of the White Mountain Apache Tribe said ordinance was posted for a period of ten (10) days as required, and

WHEREAS, no objection to the final enactment of said ordinance has been received by the Tribal Council to the passage of the Minimum Wage Ordinance.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Minimum Wage Ordinance is hereby enacted effective immediately, in the form and content as posted and attached hereto.

The foregoing resolution was adopted on July 15, 1981 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, o, n, & q) of the Amended Constitution and By-Law 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

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FORT APACHE INDIAN
AGENCY
WHITERIVER, ARIZ.

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

BE IT ENACTED by the Tribal Council of the White Mountain Apache Tribe, regularly assembled, June 2, 1981, that a Minimum Wage Standard be established as follows:

WHITE MOUNTAIN APACHE TRIBE MINIMUM WAGE ORDINANCE

SECTION I. PURPOSE AND INTENT

The purpose of this Minimum Wage Ordinance is to protect and stabilize the wages of persons employed on the Fort Apache Indian Reservation be they employed by the White Mountain Apache Tribe and its Enterprises or be they employed by non-tribal employers within the exterior boundaries of the Fort Apache Indian Reservation.

The intent of this Ordinance is to provide said employees of employers within the Fort Apache Indian Reservation some measure of adequate remuneration for their labor and to provide them with a certain standard of living rather than to receive compensation which often may be uncertain and fluctuating. Further, the requirement of a minimum wage will increase job stability and will enhance the stability and unity of family well-being and further the economic well-being of the White Mountain Apache Tribe.

SECTION II. DEFINITIONS

A. PERSON - Shall mean a natural person, Indian or non-Indian, partnership, association, corporation, business trust, legal representative, or any organized group of persons.

B. BUSINESS - A profession, trade or occupation or other calling carried out for profit or livelihood, or any employee or agent of the same.

C. AGENCY - Any organizational unit engaged in carrying out business on the Fort Apache Indian Reservation, i.e., Arizona State government, White Mountain Apache Tribe, or non-tribal government.

D. MINIMUM WAGE - Minimum wage means \$3.35 per hour to be effective upon the final enactment of this Ordinance by the Tribal Council and shall also mean the prevailing minimum wage as increased from time to time by and pursuant to the Fair Labor Standards Act (Federal Wage and Hour Law) provided that no other provision of the Federal Wage and Hour Law shall be applicable herein.

E. EMPLOYER - Employer as used in this Ordinance means any person who hires or employs any other person to perform

SECTION III. SCOPE OF ORDINANCE

Every employer who engages in any business within the exterior boundaries of the Fort Apache Indian Reservation shall pay to each of his employees who in any work week is engaged in the employ of said business or in the production of good and services for such business not less than the minimum wage of \$3.35 per hour and shall pay such increases in the minimum wage as established by the Fair Labor Standards Act (Federal Wage and Hour Law) as required from time to time by said act; providing, that no other exemptions or provisions of the Federal Wage and Hour Law shall be applicable to construe or interpret the applicability of this minimum wage standard to employers within the exterior boundaries of the Fort Apache Indian Reservation.

SECTION IV. EXEMPTIONS

This Ordinance shall be applicable to all employers except the various livestock associations within the exterior boundaries of the Fort Apache Indian Reservation, Youth camps employing minors under the age of sixteen years of age, and those employers which from time to time the Tribal Council may declare exempt by amendment to this Ordinance.

SECTION V. ENFORCEMENT AUTHORITY

The Apache Tribal Employment Rights Office shall conduct a survey of compliance with this ordinance establishing a minimum wage for all employers conducting business as defined in this ordinance within the exterior boundaries of the Fort Apache Indian Reservation; and, in order to carry out the purposes of this ordinance, the Apache Tribal Employment Rights Office shall have the authority to issue rules, regulations, and guidelines to implement the minimum wage requirements imposed by this ordinance, to hold hearings, to subpoena witnesses and documents, to require employers to submit reports and to take such other actions as are necessary for the fair and vigorous implementation of this ordinance.

SECTION VI. EMPLOYER COMPLIANCE WITH TERO REGULATIONS

All employers operating within the exterior boundaries of the Fort Apache Indian Reservation are hereby required to comply with the rules, regulations and guidelines of the Tribal Employment Rights Office which shall set forth the specific obligations of the employer in regards to compliance with this minimum wage ordinance.

SECTION VII. SANCTIONS FOR NON-COMPLIANCE

1. Denial of the right to commence business on the Fort Apache Indian Reservation;
2. Civil penalties;
3. Suspension of the employers operations;
4. Termination of the employers operation;
5. Denial of the right to conduct any further business on the Fort Apache Indian Reservation; and
6. Payment of any back pay in order to correct harm or injury suffered by an aggrieved employee.

B. Sanctions shall be imposed by the Director of the Apache Tribal Employment Rights Office, after allowing the employer an opportunity to present evidence showing why it did not violate the requirements of this ordinance or why it should not be sanctioned. An employer shall have the right to appeal to the Tribal Court any decision by the director that imposes sanctions on him. The employer shall have a further right of appeal after exhausting his remedies in the Tribal Court by an appeal to the Tribal Council of the White Mountain Apache Tribe which shall not entertain any new evidence of compliance or non-compliance but will restrict its review to the record made at the administrative and Tribal Court level.

SECTION VIII. CIVIL PENALTY

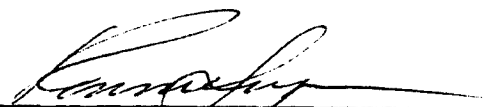
A. In addition to any of the sanctions set forth in Section VII, A. above, any employer who fails to comply with this ordinance and rules and regulations promulgated by the Apache Tribal Employment Rights Office is liable for a civil penalty of not less than One Hundred Fifty (\$150.00) Dollars or more than Five Hundred (\$500.00) Dollars for the first offense and not less than Five Hundred (\$500.00) Dollars nor more than One Thousand (\$1,000.00) Dollars for the second offense.


B. In addition to any of the sanctions set forth herein, any employer found in willful violation of this ordinance shall pay the employee aggrieved by such willful non-compliance with this ordinance, treble the amount of wages wrongfully withheld.

C. Any employer found to have willfully violated any of the provisions of this ordinance may be excluded from the reservation in accordance with Chapter VI of the Law and Order Code of the White Mountain Apache Tribe in addition to any other penalties provided herein.

D. Employers are prohibited from terminating an employee in retaliation for filing a complaint with the Tribal Employment Rights Office for failure to pay them the minimum wage established by this ordinance.

The foregoing Ordinance was on June 2, 1981, duly enacted by a vote of seven for and zero against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V, Section 1 (i), (o), (n), and (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).


Chairman of the Tribal Council


Secretary of the Tribal Council