

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

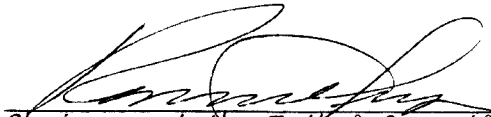
WHEREAS, by previous resolution, the Tribal Council of the White Mountain Apache Tribe enacted a proposed ordinance providing for the exclusion and removing of non-members from tribal land who present a danger to the public health or safety of the people of the White Mountain Apache Tribe, and

WHEREAS, said proposed Ordinance was posted for a period of ten 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, and

WHEREAS, more than ten (10) days has transpired since the posting of said proposed Ordinance and the Tribal Council having received no objections to the passage of said proposed Ordinance.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that Ordinance No. 127, providing for the exclusion and removal of non-members from tribal land is hereby enacted effective immediately, in the form and substance attached to this resolution and incorporated by reference.

The foregoing resolution was on May 12, 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 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).


Chairman of the Tribal Council

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MAY 20 1982
FORT APACHE INDIAN
AGENCY
INTERIOR DEPT.


Secretary of the Tribal Council

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

EXCLUSION AND REMOVAL OF
NON MEMBERS FROM TRIBAL LAND

BE IT ENACTED by the Tribal Council of the White Mountain Apache Tribe that Chapter VI, Part 1, Sections 61.1 through 61.3, inclusive of the Tribal Law and Order Codes, entitled "Removal of Non-Members", is hereby repealed and replaced by this ordinance number 127 as follows:

§ 1001. Exclusionary Process

(a) The Chairman, White Mountain Apache Tribal Council, or in his absence the Vice-Chairman, White Mountain Apache Tribal Council, is empowered to close any 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 concurrence by the White Mountain Apache Tribal Council.

(b) A nonmember of the White Mountain Apache Tribe may be excluded or removed from the Ft. Apache Indian Reservation after 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, on order of a Tribal Judge of the White Mountain Apache Tribe. Such interim exclusion or removal of the non-member from the Ft. Apache Indian Reservation shall only be ordered in cases involving the public health and safety and for a period no longer than necessary for an exclusion hearing to be held.

(c) An Order of Exclusion or Removal may be entered:

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

(?) 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, timber cutting, surveying or damaging or using property of the White Mountain Apache Tribe or any resident thereof, disturbing any gravesite, 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;

(C) Interference with or unauthorized photographing of any White Mountain Apache traditional ceremony or other religious ceremony; or

(D) Unauthorized trading or peddling; or

(E) Unauthorized entering of an area of the Ft. Apache Indian Reservation closed to nonmembers; or

(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.

(d) 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

§ 1003. Notice of exclusion

The Chairman or in his absence, the Vice-Chairman, of the Tribal Council shall cause notice 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 Council to show cause why he should not be excluded from Tribal land.

§ 1004. Hearing; order of exclusion

(a) Upon request of the Chairman or in his absence, the Vice-Chairman of the Tribal Council or upon its own motion and after notice to the person proposed for exclusion or removal, the Tribal Council shall hold a hearing to decide whether or not the nonmember shall be excluded from Tribal land. 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 Council may order such person to remain upon Tribal land on such conditions as the Council see fit to impose. All orders of exclusion or removal shall remain in force until revoked by the Tribal Council, unless the order specifically provides otherwise.

§ 1005. Enforcement of exclusion order

If any person ordered excluded from the Ft. Apache Indian Reservation by the Tribal Council does not promptly obey the order, the Chairman of the Tribal Council shall refer the case to the Superintendent of the Ft. Apache Indian Agency for appropriate action, or he may refer the matter directly to the United States Attorney. If at a reasonable time after reference to the Superintendent, Ft. Apache Indian Agency, or the United States Attorney, no effective action has

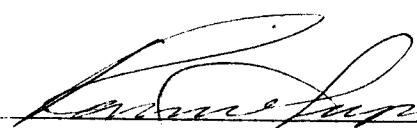
Apache policeman or Game Ranger to remove a nonmember and/or any property of such nonmember bodily from Tribal land, either before or after such person has been ordered excluded by the Tribal Council as provided in 126 §1004. The Policeman or Game Ranger ~~executing~~ such order shall use only so much force as is necessary to effect the removal.

(b) If service of the notice provided for in 126 §1003 has not already been made on such person, the Chairman 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.

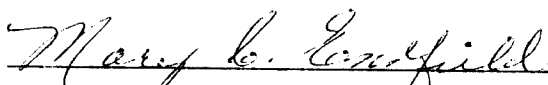
(c) In all cases where the person has not already been ordered excluded by the Tribal Council, the Chairman shall notify the person of a place on the Reservation boundary where he may reenter in the company of a White Mountain Apache Policeman or Game Ranger for the purpose of attending a hearing before the Tribal Council. The Chairman shall order a White Mountain Apache Policeman or Game Ranger to accompany such person while he is on the Reservation coming to and leaving his hearing.

(d) Any nonmember ordered by the Tribal Council or Tribal Court to leave the Reservation may be delivered to the custody of state or federal authorities for prosecution.

The foregoing Ordinance No. 127 was on May 12, 1982 duly enacted 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).



Chairman of the Tribal Council



Secretary of the Tribal Council