

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

WHEREAS, the Tribal Council, by prior resolution, directed that amendments to Towing Ordinance No. 133 be posted for a period of ten days as required by the Tribal Constitution, and

WHEREAS, said proposed amendment has been posted for more than ten (10) days and the Tribal Council has not received any public comments opposing amendments and the Council concluding that said amendments should be finally passed for the benefit of the White Mountain Apache Tribe.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby enacts final passage of the Towing Ordinance as No. 135.

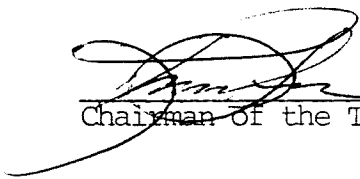
The foregoing resolution was on August 03, 1983 duly adopted by a vote of 10 for and 0 against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V, Section 1 (i) of the Amended Constitution and By-Laws of the Tribe, ratified by the Tribe June 27, 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

AUG 11 1983

FORT APACHE INDIAN
AGENCY

APACHE COUNTY, ARIZONA


Chairman of the Tribal Council


Secretary of the Tribal Council

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

TOWING OF VEHICLES

BE IT HEREBY ENACTED by the Tribal Council of the White Mountain Apache Tribe that Ordinance No. 133 known as the Towing Ordinance be amended as follows:

Section 1. Purpose:

The purpose of this ordinance is to clear the roadways and public business areas of abandoned vehicles which may cause a threat to the life and/or property of the Fort Apache Indian Reservation, and to clear the roadways of abandoned vehicles which clutter these roadways and surrounding areas.

Section II: Definitions:

1. abandoned vehicles: any motor vehicle left without supervision on a tribal roadway for a period greater than 48 hours.
2. disabled vehicle: any motor vehicle which is currently inoperable because it has malfunctioned.
3. roadways: any public road, street, highway, freeway, or other area designated and ordinarily used
4. unattended vehicle: any motor vehicle which is operable and is clearly in use but has been temporarily left unsupervised.

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

Section VI. 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. Scope

This ordinance shall apply to all abandoned vehicles located within the exterior boundaries of the Fort Apache Indian Reservation.

Section VI. Stopping, Standing or Parking Outside of Business or Residence District

- A. Upon any roadway outside of a business or residence

district no person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the paved or main traveled part of the roadway when it is practicable to stop, park or so leave the vehicle off that part of the roadway, but in every event an unobstructed width of the roadway opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of the stopped vehicles shall be available from a distance of two hundred feet in each direction upon the roadway.

B. This section shall apply to:

1. The driver of any vehicle which is disabled while on the paved or main-traveled portion of a roadway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the disabled vehicle in such position.

Section VII: Officers Authorized to Remove Illegally Stopped Vehicles

A. When any Tribal police officer finds a vehicle standing upon a roadway in violation of the provisions of Sec. V., the officer is authorized to move the vehicle, or require the driver or other person in charge of the vehicle to move the same, to a position off the paved or main-traveled part of the roadway.

B. Any Tribal police officer is authorized to remove or cause to be removed to a place of safety any unattended vehicle illegally left standing upon any highway, bridge, cause-way, or in any tunnel, in such position or under such circumstances as to obstruct the normal movement of traffic.

C. Any Tribal police officer is authorized to remove or cause to be removed to the nearest garage or other place of safety any vehicle found upon a highway:

(1) When a report has been made that such vehicle has been stolen or taken without the consent of its owner;

(2) When the person or persons in charge of such vehicles are unable to provide for its custody or removal;

(3) When the person driving or in control of such vehicle is arrested for an alleged offense for which the officer is required by law to take the person arrested before a proper magistrate without necessary delay;

(4) When any vehicle is left unattended for more than four hours upon the right-of-way of any roadway which has full control of access and no crossings at grade.

(5) When any vehicle is left unattended for more than two hours upon the right-of-way of any roadway, within the boundaries of a city, which has full control of access and no crossings at grade;

(6) When a vehicle has been left unattended for 48 hours or more on a public street, road, roadway, or alley; or

(7) When a vehicle has been left unattended for more than 72 hours in a public business place without the consent of the owner of such establishment but only at the request of the business owner.

Section VIII: Guidelines for Removal of Abandoned Vehicles.

A. A red warning label shall be placed upon any vehicle which is to be towed. This label shall state the date and time when the officer discovered the abandoned vehicle and the mile post location or address where the vehicle stands. The warning shall state that the vehicle will be towed 48 hours from the time posted on the label.

B. Exceptions to paragraph VII. (A) are those vehicles described in Section VI. (A), (B), (C)(3), (C)(4), and (C)(5).

C. All vehicles shall be towed by the nearest towing garage and upon express order of the Tribal police officer who located the vehicle.

D. A complete inventory and legal description of the vehicle to be towed shall be made by the police officer; and placed on file at the Tribal Police Department in Whiteriver, Arizona along with information regarding the towing company and its location.

Section IX: Towing Fees

A. The White Mountain Apache Tribe and the White Mountain Apache Tribal Police Department and any agent thereof shall not be liable for any expenses incurred by the towing company for towing and storing an abandoned vehicle.

B. All expenses for the towing and storage of an abandoned vehicle shall be the sole liability of the vehicle's owner; and shall be collected by the towing company that moved and stored the vehicle.

C. The towing company shall have the sole responsibility for collecting the expenses incurred by the towing company from the owner of the vehicle. The towing company shall have no claim for these expenses against the Tribal Police Department.

D. A complete inventory and legal description of the vehicle to be towed shall be made by the police officer; and placed on file at the Tribal Police Department in Whiteriver, Arizona along with information regarding the towing company and its location.

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C. The towing company shall have the sole responsibility for collecting the expenses incurred by the towing company from the owner of the vehicle. The towing company shall have no claim for these expenses against the Tribal Police Department.

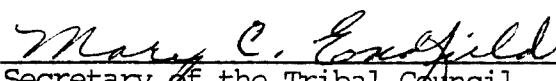
Section X: Nothing in this Ordinance constitutes consent by the White Mountain Apache Tribe, its sub-organizations, or any agent thereof to be sued in any Court. This Ordinance does not represent a waiver of the White Mountain Apache Tribe's sovereign immunity for any purpose. The right to protection under the Tribe's sovereign immunity is in no way warned by the Tribe's sub-organizations, Tribal Councilmen and officials, and Tribal employees.


Section XI: Severability Clause:

If any provision of this act 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 provisions or application, and to this end the provisions of this act are severable.

The foregoing ordinance was on August 03, 1983 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 1 (g) 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 Indian Agency
Whiteriver, Arizona