

RESOLUTION NO. 21-95
OF THE GOVERNING BODY OF THE
YAVAPAI-APACHE NATION

(Excluding and Eviction Ordinance)

WHEREAS, the Yavapai-Apache tribe has identified the need to revise and update the ordinance originally adopted approximately in 1978; and,

WHEREAS, an exclusion and eviction ordinances serve to protect the health, safety and well-being of the Tribe and its members; and,

WHEREAS, the removal of individuals who pose a threat to the best interest of the Tribe is of extreme importance to the Tribe; and,

WHEREAS, the attached exclusion and eviction ordinances provide a fair mechanism to address exclusion and eviction concerns of the Tribe.

NOW THEREFORE BE IT RESOLVED, that the Tribal Council hereby enacts the attached laws entitled Exclusion Ordinance and Eviction Ordinance.

BE IT FURTHER RESOLVED, that the attached ordinances shall supersede and replace Chapter 7 entitled "Removal of Non-members" of the Yavapai-Apache Code.

CERTIFICATION

I, hereby certify that the foregoing resolution was adopted by an affirmative vote of the Tribal Council, presented for approval on March 10, 1995, pursuant to the authority contained under Article V, Sections (a), (e), (i), (n), (t), (u), (v), and (w) of the Constitution of the Yavapai-Apache Tribe, approved April 13, 1992.

Theodore Smith Sr
Theodore Smith, Sr., Chairman

ATTEST:

Karla Reimer
Karla Reimer, Tribal Secretary

EXCLUSION ORDINANCE

Exclusion

Pursuant to the Yavapai-Apache Constitution, Article 5, Sections (a), (t), (u), (v) and (w), the Tribal Chairperson or Tribal Council may initiate an action in Tribal Court to exclude any non-member of the Yavapai-Apache Tribe who either resides or maintains a presence on any lands within the jurisdiction of the Yavapai-Apache Tribe, including but not limited to Reservation lands.

The Yavapai-Apache Tribe may exclude non-members of the Tribe for any of the following reasons:

- 1) that the individual has violated any law or custom of the Yavapai-Apache Tribe, including both civil and criminal law;
- 2) that the exclusion is in the best interests of the Tribe;
- 3) that the continued presence of the non-member of the Tribe acts against the safety or well being of the Yavapai-Apache Tribe; or,
- 4) that the continued presence of the non-member of the Tribe constitutes a threat to the safety or well being of the Yavapai-Apache Tribe.

When the Tribal Chairperson initiates an exclusion action, the Chairperson shall notify the Tribal Council of such action. The Tribal Council may intervene in the Tribal Court proceeding at any time prior to the issuance of an order by the Tribal Court. Upon an order issuing from the Yavapai-Apache Tribal Court, the exclusion shall be for the duration of time set by the Tribal Court. The Tribal Court shall consider the recommendations of the Tribal Chairperson or Tribal Council in determining the duration of the exclusion. The decision of the Tribal Court shall be final.

In all cases involving a spouse of a Tribal member, the Tribe shall be required to show by clear and convincing evidence that the exclusion should be executed. In all other cases, a preponderance of the evidence before the Tribal Court shall be sufficient to exclude a non-tribal member.

EVICTIION ORDINANCE

Eviction

Pursuant to the Yavapai-Apache Constitution, Article 5, Sections (a), (t), (u), (v) and (w), the Tribal Chairperson or Tribal Council may take action to evict tenants residing on the Yavapai-Apache Tribe Reservation or on any lands with the jurisdiction of the Yavapai-Apache Tribe.

The eviction proceedings may be based on any of the following conditions:

- 1) the failure of the tenant to pay rent;
- 2) the tenant occupying the property for a duration longer than the time originally designated for tenancy or rental, and no tenancy shall be for a period longer than seven (7) days unless approved in writing by the Tribal Council;
- 3) the designation by the Yavapai-Apache Tribe of the lands occupied by the tenants as land necessary for the economic development of the Yavapai-Apache Tribe; or,
- 4) the designation by the Yavapai-Apache Tribe of the lands occupied by the tenants as necessary for the improvement of the well-being of the Yavapai-Apache Tribe.

A. The Tribal Chairperson may serve a Notice to Vacate upon the tenant either in person or by mail. The Notice shall inform the tenant that the Yavapai-Apache Tribe is exercising its right to terminate the rental agreement and that the right of the tenant to reside on tribal lands terminates seven (7) days after the service of the Notice to Vacate.

B. Receiving a Notice to Vacate shall not excuse the tenant from the tenant's obligation to pay rent for the remaining duration of the tenancy. Any payment of rent owing shall be prorated to complete the remaining tenancy allotted. Any payment of prorated rent shall be due and payable at the beginning of the normal tenancy period(s).

C. The tenant shall use reasonable care while occupying the premises. When vacating the premises, the tenant shall leave the premises in the same condition as when rented, absent normal wear and tear. The tenant shall be responsible for any damages, either direct or indirect, resulting from the tenant's occupation of the premises.

D. When vacating the premises, the tenant shall remove any personal property which the tenant has placed on the rental property. Any personal property left on the premises after seven (7) days have passed since the service of the Notice to Vacate shall be deemed abandoned and shall become the property of the Tribe. Costs of removal of personal property shall be deducted from any deposits on file, and any remaining costs and related expenses shall be the responsibility of the tenant.

E. The Yavapai-Apache Tribal Court shall have exclusive jurisdiction in the enforcement of this ordinance.