

Fort McDowell Mohave-Apache community

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS



CONSTITUTION AND BY-LAWS
OF THE
FORT McDOWELL MOHAVE-APACHE
COMMUNITY
ARIZONA



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CONSTITUTION AND BYLAWS OF THE FORT McDOWELL MOHAVE-APACHE COMMUNITY

PREAMBLE

we, the people of the Fort McDowell Band of Mohave-Apache Indians, in the State of Arizona, in order to improve and promote our general welfare and to provide means for the orderly transaction of tribal business and free expression of the tribal will, under the act of Congress granting us the authority for home rule, do ordain and establish this Constitution for the government of the Fort McDowell Mohave-Apache Community.

ARTICLE I—TERRITORY

The jurisdiction of the Fort McDowell Mohave-Apache Community shall extend to all lands within the boundaries of the Fort McDowell Indian Reservation, established pursuant to Executive Order of September 15, 1903, and the act of August 23, 1904 (28 Stat. 491), and to such other land as may in the future be added thereto.

ARTICLE II—GOVERNING BODY

SECTION 1. The governing body of the Fort McDowell Mohave-Apache Community shall be known as the Mohave-Apache Community Council.

SEC. 2. The Council shall be composed of five members who shall be elected by the qualified voters of the Fort McDowell Mohave-Apache Community.

SEC. 3. The first election of members of the Council shall be called by the Secretary of the Interior within sixty days after the adoption and ratification of this Constitution.

SEC. 4. The Council members then elected shall agree among themselves or draw lots so as to provide that three members of the Council shall serve for one year and two members for two years.

SEC. 5. Thereafter members of the Council shall serve for two years, three to be elected at the end of the first year and two members the following year.

SEC. 6. The election of the Council shall be held each year on the same month and day of the first election, or if such date falls on Sunday or legal holiday then, on the following day.

SEC. 7. The Council shall at its first meeting elect from within its membership a President and Vice-President, and, from within or outside of its own membership, a Secretary and Treasurer.

ARTICLE III—MEMBERSHIP IN THE COMMUNITY

SECTION 1. All persons whose names appear on the Fort McDowell Indian Reservation census roll of 1934 shall be members of the Com-

munity, provided that corrections may be made in this roll by the Community Council, with the approval of the Secretary of the Interior, within two years after the approval of this Constitution.

SEC. 2. All descendants of members shall be entitled to membership in the Community if they are of at least one-quarter ($\frac{1}{4}$) degree of Indian blood.

SEC. 3. Any person of Indian blood who has resided within the Fort McDowell Indian Reservation for at least three years and whose name does not appear on any other reservation roll may be granted membership in the Community by a majority vote of the Council and upon the approval of the Secretary of the Interior.

ARTICLE IV—POWERS OF THE COUNCIL

SECTION 1. *Powers not subject to review.*—The Fort McDowell Mohave-Apache Community Council shall exercise the following powers subject to any limitations imposed by the statutes or by the Constitution of the United States and subject further to all expressed restrictions upon such powers contained in this Constitution.

(a) To prevent the sale, disposition, lease, or encumbrance of Community lands, interests in lands, or other Community assets without the consent of the Community.

(b) To negotiate with the Federal, State, and local governments on behalf of the Fort McDowell Mohave-Apache Community.

(c) To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior.

(d) To advise the Secretary of the Interior and Congress of its wishes with regard to Federal projects or appropriations for the benefit of the Fort McDowell Mohave-Apache Community.

(e) To appoint subordinate boards and officers and prescribe their duties and powers.

(f) To regulate its own procedure.

(g) To provide for the manner of conducting elections.

(h) To regulate the domestic relations of members of the Community.

(i) To pass ordinances or resolutions incidental to the exercise of any of the foregoing powers.

SEC. 2. *Powers subject to review.*—The Fort McDowell Mohave-Apache Community Council shall likewise exercise the following powers subject to review by the Secretary of the Interior.

(a) To remove or exclude from the territory of the Community non-members whose presence may be injurious to the peace, health or welfare of the Community.

(b) To levy dues, fees, and taxes on members of the Community and non-members residing within the reservation, and to require members of the Community to contribute labor for public work and enterprises.

(c) To provide for the appointment of guardians for minors and mental incompetents.

(d) To administer all Community lands and Community property.

(e) To establish and regulate subordinate organizations for business purposes.

(f) To appropriate money out of available Community funds for salaries of Community officials and for other expenses of public business.

(g) To recommend the appropriation of tribal and other funds within the control of Congress or of the Secretary of the Interior.

(h) To lay down criminal and civil codes of ordinances governing the conduct of members of the Community and non-member Indians of the Community.

(i) To establish a Community court.

SEC. 3. Manner of review.—Any resolution or ordinance which, by the terms of this Constitution, is subject to review by the Secretary of the Interior, shall be presented to the Superintendent of the reservation, who shall, within two weeks (14 days) thereafter, approve or disapprove the same.

If the Superintendent shall approve any ordinance or resolution, it shall thereupon become effective, but the Superintendent shall transmit a copy of the same, bearing his endorsement, to the Secretary of the Interior, who may, within ninety days from the date of enactment, rescind the said ordinance or resolution for any cause, by notifying the Mohave-Apache Community Council of such rescission.

If the Superintendent shall refuse to approve any resolution or ordinance submitted to him, within two weeks (14 days) after its enactment, he shall advise the Mohave-Apache Community Council of his reasons therefor. If these reasons appear to the Council insufficient, it may, by a majority vote, refer the ordinance or resolution to the Secretary of the Interior, who may, within ninety days from the date of its enactment, approve the same in writing, whereupon the said ordinance or resolution shall become effective.

SEC. 4. Future powers.—The Fort McDowell Mohave-Apache Community Council may exercise such powers as may in the future be delegated to the Community by the Secretary of the Interior, or by any other duly authorized official or agency of the government.

SEC. 5. Reserved powers.—Any rights and any powers heretofore vested in the Fort McDowell Band of Mohave-Apache Indians shall not be abridged by this article, but may be exercised by the people of the Fort McDowell Mohave-Apache Community through the adoption of appropriate by-laws and constitutional amendments.

ARTICLE V—ELECTIONS

SECTION 1. Right of suffrage.—All adult members of the Community, male or female, who have attained the age of twenty-one (21) years and have resided on the Fort McDowell Indian Reservation for a period of six months immediately preceding the election shall have the right to vote in any election held under this Constitution.

SEC. 2. Manner of making nominations.—The manner of making nominations and holding elections shall be determined by appropriate ordinances or by-laws.

SEC. 3. Vacancies.—When a Councilman is removed for cause, or resigns, or otherwise ceases to hold office, the Community shall elect a successor at a special election called by the Community Council, to

be held within thirty (30) days after the occurrence of the vacancy. The said successor shall hold office until the expiration of the regular term of his or her predecessor whose place he or she has taken.

ARTICLE VI—SUSPENSION FROM OFFICE

SECTION 1. *Suspension from office.*—Any public official of the Fort McDowell Mohave-Apache Community who is indicted in a Federal or State court or convicted in an Indian court of bribery or any other serious offense, shall automatically be suspended from office. The remaining members of the Council shall investigate and judge whether the crime is serious enough to justify impeachment proceedings or whether the suspended official should be reinstated.

SEC. 2. *Impeachment.*—Any public official of the Fort McDowell Mohave-Apache Community who is proven guilty of improper conduct or gross neglect of duty may be expelled by a majority vote of the Community Council voting in favor of such expulsion, provided that the accused member shall be given full and fair opportunity to reply to any and all charges at a designated Council meeting. It is further stipulated that any such member shall be given a written statement of the charges against him or her at least five days before the meeting at which he or she is to appear.

Where the Council is sitting for impeachment purposes, all parties shall be under oath or affirmation.

SEC. 3. *Recall.*—(a) Every person elected to a Community office by Indians of the Fort McDowell Mohave-Apache Community is subject to recall from such office by the qualified voters of the Community. Such number of said voters as shall equal forty per centum of the number of votes cast at the last preceding general election may, by petition, which shall be known as a "Recall Petition", demand his or her recall.

(b) Every recall petition must contain a general statement, in not more than two-hundred words, of the grounds of such demand and must be filed at the office of the Fort McDowell Mohave-Apache Community Council. Each signer of such recall petition must add to his or her signature the date of his or her signing the said petition. The person circulating such petition must make and subscribe an oath on each sheet that the signatures thereon are genuine.

(c) If said officer offers his or her resignation it shall be accepted. If he or she does not resign within ten (10) days after a recall petition is filed, a special election shall be ordered held, not less than twenty or more than thirty days after such order, to determine whether such officer be recalled. On the ballots at said election shall be printed the reasons as set forth in the petition, and, in not more than the same number of words, the officer's justification of his or her course in office. He or she shall continue to hold office until the result of the said election shall be officially declared.

(d) No recall petition shall be circulated more than thirty days, and shall be filed at the office of the Mohave-Apache Community Council ten days thereafter.

SEC. 4. *Removal of appointed officials.*—Any officer or board appointed by the Mohave-Apache Community Council may be removed or discharged by a majority vote of the Council. Any such officials shall be removed for cause only.

ARTICLE VII—REFERENDUM

At least twenty percent of the qualified voters of the Fort McDowell Mohave-Apache Community on petition shall have the right to demand a referendum on any enacted or proposed ordinance or resolution of the Mohave-Apache Community Council, the vote of the majority of the qualified voters in such referendum to be conclusive and binding on the Council.

ARTICLE VIII—AMENDMENTS

This Constitution and By-laws may be amended by a majority vote of the qualified voters of the Fort McDowell Mohave-Apache Community voting in an election called for that purpose by the Secretary of the Interior provided that at least thirty percent of those entitled to vote shall vote in such election; but no amendment shall become effective until it shall have been approved by the Secretary of the Interior. It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment at the request of the Council.

BY-LAWS OF THE FORT McDOWELL MOHAVE-APACHE COMMUNITY

ARTICLE I—DUTIES OF THE OFFICERS

SECTION 1. *President.*—The President of the Mohave-Apache Community Council shall preside at Council meetings, and shall be the chairman and direct all Council meetings and perform such other duties as the Council may prescribe.

SEC. 2. *Vice-President.*—The Vice-President shall perform the duties of the President in the absence or incapacity of the President.

SEC. 3. *Secretary.*—The Secretary shall be the recording and corresponding Secretary and shall keep an accurate record of all matters transacted at Council meetings.

SEC. 4. *Treasurer.*—The Treasurer shall have the custody of all money that may come under the jurisdiction of the Mohave-Apache Community Council, and shall keep an accurate record as to receipt and distribution thereof, and shall furnish such bond as the Council, with the approval of the Commissioner of Indian Affairs, may require.

ARTICLE II—QUALIFICATIONS OF OFFICE

SECTION. 1. No person shall be elected to the Council unless he or she shall be a member of the Community over the age of twenty-one (21) years and shall have been a resident of the Fort McDowell Indian Reservation at least six months immediately preceding the election. Any member of the Mohave-Apache Community Council who is affiliated with any organization or individual, not a member of the Community, shall not vote upon any matters in which such organization or individual has a pecuniary interest, and shall have no vote in matters where any close relative has interest, if in the judgment of the Council, such affiliation shall render him incapable of openly, freely and fearlessly working for the best interests and welfare of the Indians of the Fort McDowell Indian Reservation.

ARTICLE III—ELECTION PROCEDURE

SECTION 1. In case an election is due it shall be the duty of the Community Council to post notices at least thirty days prior to the date of such election, naming the date on which said election is to be held, and all elections shall be held at the Community building, which place shall be within the Fort McDowell Indian Reservation. Ten days after notification the Community Council shall call a meeting for nomination of candidates.

On the date and at the place named, the legal voters of the Reservation shall assemble and one of the Council shall act as temporary Chairman. At once, a permanent Chairman shall be chosen and three tellers who shall be officers and judges of election.

The assembled legal voters of the Fort McDowell Indian Reservation shall then proceed to transact the business for which they have been assembled. Nomination shall be the thing in order. This having been completed, and the nominations having been declared closed, the meeting shall be dismissed. The election shall take place not less than twenty days later, the wishes of the voters being ascertained by means of a secret ballot. The polls shall open at 9 a. m. and close at 2 p. m. the same day. The nominees receiving the largest number of votes cast shall be declared elected. The newly elected members shall be furnished with a certificate of election, to be signed by the permanent Chairman and the three tellers.

SEC. 2. *Validity of election.*—The Superintendent of the Reservation shall be the judge of the validity and authenticity of the certificates of election presented to him.

ARTICLE IV—CONDUCT OF COUNCIL MEETINGS

SECTION 1. *Regular council meetings.*—The regular meetings of the Council shall be held on the first Tuesday of each month.

SEC. 2. *Special council meetings.*—Special meetings of the Council may be held at the call of the President or on application of three members, due notice being given to all members at least three days before such meeting.

SEC. 3. *Quorum.*—A majority of the members of the Council, one of whom shall be the President or the Vice-President or the Secretary shall constitute a quorum for the transaction of business.

ARTICLE V—ADOPTION OF CONSTITUTION

This Constitution and the attached By-laws, when adopted by a majority vote of the qualified voters of the Fort McDowell Band of Mohave-Apache Indians voting at a special election called by the Secretary of the Interior, in which at least 30 percent of those entitled to vote shall vote, shall be submitted to the Secretary of the Interior for his approval, and shall be in force from the date of such approval.

CERTIFICATION OF ADOPTION

Pursuant to an order, approved August 18, 1936, by the Secretary of the Interior, the attached Constitution and By-laws was submitted for ratification to the members of the Fort McDowell Band of

Mohave-Apache Indians of the Fort McDowell Reservation and was on October 3, 1936, duly adopted by a vote of 61 for and 1 against in an election in which over 30 percent of those entitled to vote cast their ballots in accordance with section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the act of June 15, 1935 (49 Stat. 378).

CHARLES DICKENS,
Chairman of Election Board.

GUY PATRICK,
Secretary of the Election Board.

A. E. ROBINSON,
Superintendent.

I, Harold L. Ickes, the Secretary of the Interior of the United States of America, by virtue of the authority granted me by the act of June 18, 1934 (48 Stat. 984), as amended, do hereby approve the attached constitution and by-laws of the Fort McDowell Mohave-Apache Community.

All rules and regulations heretofore promulgated by the Interior Department or by the Office of Indian Affairs, so far as they may be incompatible with any of the provisions of the said constitution and by-laws, are hereby declared inapplicable to the Fort McDowell Band of Mohave-Apache Indians.

All officers and employees of the Interior Department are ordered to abide by the provisions of the said constitution and by-laws.

Approval recommended November 13, 1936

JOHN COLLIER,
Commissioner of Indian Affairs.

HAROLD L. ICKES,
Secretary of the Interior.

[SEAL]

WASHINGTON, D. C., November 24, 1936.

