

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS



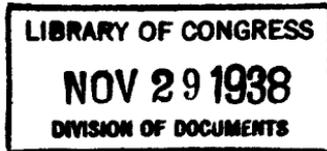
CONSTITUTION AND BY-LAWS
OF THE
WHITE MOUNTAIN APACHE TRIBE
" OF THE
FORT APACHE INDIAN RESERVATION
ARIZONA



APPROVED AUGUST 26, 1938



Law
Office
Indian Tribes
White Mountain
Apache, Ariz.
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CONSTITUTION AND BY-LAWS OF THE WHITE MOUNTAIN APACHE TRIBE OF THE FORT APACHE INDIAN RESERVATION

PREAMBLE

We, the White Mountain Apache Tribe of the Fort Apache Indian Reservation, Arizona, in order to form a more representative organization; to conserve and develop our tribal lands and resources for ourselves and our children; to provide a higher standard of living, better home life and better homes within the reservation; to extend to our people the right to form business and other organizations; do adopt this Constitution and By-laws as a guide to our self-governing program.

ARTICLE I—TERRITORY

The authority of the White Mountain Apache Tribe, of Arizona, shall extend to all of the territory within the Fort Apache Indian Reservation as established by the Act of Congress, June 7, 1897, and to such other lands as the United States may acquire for the benefit of the tribe, or which the tribe may acquire for itself.

ARTICLE II—MEMBERSHIP

SECTION 1. The membership of the White Mountain Apache Tribe shall consist as follows:

(a) All persons of White Mountain Apache Indian blood whose names appear on the official census roll at Fort Apache Indian Agency, Whiteriver, Arizona, on January 1, 1938;

(b) All children born from marriages that were contracted before the date of the adoption of this Constitution, between enrolled Apaches and persons other than Apaches;

(c) All children born to members of the White Mountain Apache Tribe who shall have one-half degree or more Indian blood;

SEC. 2. The Tribal Council shall have power to enact ordinances, subject to review by the Secretary of the Interior, governing future membership and the adoption of new members.

ARTICLE III—ORGANIZATION OF TRIBAL COUNCIL

SECTION 1. The governing body of the White Mountain Apache Tribe shall consist of a council of nine members elected from the various districts of the reservation and one member from the reservation at large, who shall be a recognized hereditary Chief of the tribe, selected by the sub-chiefs of the various recognized bands. The tenure of the office of the Chief as a member of the Council shall continue until he may be recalled by the sub-chiefs, or until his voluntary resignation or death. His successor may be chosen in the same manner.

SEC. 2. The representation from each district shall be as follows: Cibicue and Oak Creek, 2 councilmen; Carrizo, 1 councilman; Upper and Lower Cedar Creek, 1 councilman; Canyon Day, 1 councilman; Eastfork 1 councilman; Seven Mile, Turkey and Corn Creek, 1 councilman; Whiteriver-Northfork and Forestdale, 2 councilmen; representative-at-large, 1. Total, 10 councilmen. The Council shall have power to redistrict and to reapportion the reservation, such changes to be in effect when approved by the voters at the next biennial election.

SEC. 3. The tenure of office of the councilmen shall be two years. The first election of representatives shall be held within 60 days after the approval of this Constitution by the Secretary of the Interior, and shall be called and supervised by the Superintendent of the reservation and the present Council. The members so elected shall serve until the first Monday in April 1940, or until their successors are elected and qualified.

SEC. 4. The Tribal Council so organized shall elect from within its own membership, first, a Chairman; second, a Vice-Chairman; and from within or without its own membership, third, a Secretary, and fourth, a Treasurer; and such other officers and committees as the Council may find necessary.

SEC. 5. The candidate or candidates in the various districts receiving the highest number of votes shall be declared elected. After the first election all elections for the Tribal Council shall be held on the first Monday of April in even-numbered years.

ARTICLE IV—ELECTIONS AND NOMINATIONS

SECTION 1. Any enrolled member of the tribe 21 years of age or over shall have the right to vote.

SEC. 2. The election of district representatives to the Council shall be by districts and the Council shall designate the polling place, or places, in each district. All voting shall be by secret ballot.

SEC. 3. Any member to be eligible for the office of councilman must have the following qualifications:

(a) A member must belong in the district from which he or she is elected and must be at least 25 years of age at the time of election.

(b) Any man or woman desiring to run for office shall register with the Secretary of the Tribal Council as a candidate at least 15 days before the date of election, and a list of the eligible candidates for each district shall be posted in the district by the Secretary.

(c) The candidate, or candidates, receiving the greatest number of votes in their respective districts shall be declared elected, and shall take office at the first regular meeting of the Council after election.

(d) All elections shall be held in accordance with rules and regulations laid down by the Tribal Council.

ARTICLE V—VACANCIES AND REMOVAL FROM OFFICE

SECTION 1. If a member of the Council or any official shall die, resign, permanently leave the reservation, or shall be found guilty of a felony or of a misdemeanor involving dishonesty, or be recalled, the Council shall declare the position vacant and call an election in

the district from which the vacancy occurred to fill the unexpired term.

SEC. 2. The Council may, by an affirmative vote of two-thirds of its members, expel any member for neglect of duty or gross misconduct, but only after reasonable notice of charges made and after an open hearing before the Council on such charges.

SEC. 3. Upon a petition of at least one-half of the eligible voters of any district, it shall be the duty of the Council to call a special election in such district for the recall of any member or members of the Council from such district named in the petition.

ARTICLE VI—POWERS OF THE TRIBAL COUNCIL

SECTION 1. The Council of the White Mountain Apache Tribe of the Fort Apache Indian Reservation shall have the following powers:

(a) To negotiate with the Federal, State, and local governments on behalf of the tribe, and to advise and consult with the representatives of the Interior Department on all activities of the Department that may affect the White Mountain Apache Tribe.

(b) To employ legal counsel for the protection and advancement of the rights of the tribe and its members, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior.

(c) To approve or veto any sale, disposition, lease or encumbrance of tribal lands, interest in lands or other tribal assets which may be authorized or executed by the Secretary of the Interior, the Commissioner of Indian Affairs, or any other duly qualified official or agency of the government: *Provided*, that no tribal lands shall ever be sold and no lands shall be encumbered, or leased for a period exceeding ten years.

(d) To deposit all funds of the tribe in an Individual Indian Moneys Account of the Fort Apache Indian Agency, and to expend such funds in accordance with a budget approved by the Secretary of the Interior, but expenditures up to a total sum of \$1,000 in any one year may be made by the Council without such approval.

(e) To submit recommendations for the expenditure of gratuity and tribal funds for tribal support, reimbursable assistance, reservation improvements, and other necessary activities looking towards the advancement of the members of the tribe.

(f) To exclude from the reservation persons not legally entitled to reside therein who, because of violations of the reservation regulations, are undesirable.

(g) To provide, subject to review by the Secretary of the Interior, ordinances for the protection of public health and the prevention of, and the spread of, communicable diseases, and ordinances governing law enforcement on the reservation and providing for the establishment of a tribal court or courts for the trial and punishment of offenders against such ordinances, but Federal and State Courts shall have jurisdiction over all other cases where Federal or State laws apply.

(h) To provide by ordinance for the assignment, use or transfer of tribal lands within the reservation.

(i) To regulate by ordinance the inheritance of real and personal property of members within the territory of the reservation.

(j) To charter subordinate organizations for economic purposes and to regulate the activities of all cooperative associations of members of the tribe.

(k) To regulate domestic relations of members of the tribe.

(l) To provide for the appointment of guardians for minors and mental incompetents by ordinances or resolutions, subject to review by the Secretary of the Interior.

(m) To make recommendations to the Superintendent and Commissioner of Indian Affairs concerning the appointment and removal of employees appointed in the field for work within the Fort Apache Indian Reservation.

(n) To manage all economic affairs and enterprises of the tribe including tribal lands, timber, sawmills, flour mills, community stores, and any other tribal activities in accordance with the terms of the Constitution and By-laws of the tribe.

(o) To regulate by ordinance, subject to review by the Secretary of the Interior, nonmembers doing business on the reservation.

(p) To regulate hunting and fishing on the reservation, and to grant licenses and permits under such regulations.

SEC. 2. *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 ten days thereafter, approve or disapprove the same. If he approves 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 90 days from the date of enactment, rescind the said ordinance or resolution for any cause by notifying the Tribal Council of his action. If the Superintendent refuses to approve any resolution or ordinance submitted to him within ten days after its enactment, he shall advise the Tribal Council of his reasons. The Council may by a majority vote refer the ordinance or resolution to the Secretary of the Interior who may within 90 days from its enactment, approve the same in writing, whereupon the said ordinance or resolution shall become effective.

SEC. 3. The Council of the White Mountain Apache Tribe may exercise such further powers as may in the future be delegated to it by the Secretary of the Interior or by any other duly authorized official or agency of government, and may exercise any rights and powers heretofore vested in the White Mountain Apache Tribe but not expressly referred to in this Constitution.

ARTICLE VII—REFERENDUM

Upon petition of at least one-half of the eligible voters of the White Mountain Apache Tribe, or upon request of the majority of the members of the Council, any enacted or proposed ordinances or resolutions of the Council shall be submitted to popular referendum and the vote of the majority of the qualified voters in such referendum shall decide whether the ordinance or resolution shall be in effect, provided one-half or more of the eligible voters participate in such referendum.

ARTICLE VIII—LANDS

The general control of the reservation lands and other tribal property shall continue as heretofore, until changed in any particular by ordinance. The reservation land now unallotted shall remain tribal property and shall not be allotted to individuals in severalty, but assignment of land for private use may be made by the Council in conformity with ordinances which may be adopted on this subject, provided the vested rights of members of the tribe are not violated. Right of occupancy of long established allocations or dwelling places and improvements made by individuals or families on tribal lands shall be confirmed by the Council through appropriate ordinances.

ARTICLE IX—AMENDMENTS

SECTION 1. This Constitution and By-laws may be amended by a majority of the qualified voters of the tribe in an election called for the purpose by the Council, provided that at least 30 per cent of the eligible voters shall vote in such election, but no amendment shall become effective until it shall have been approved by the Secretary of the Interior.

SEC. 2. It shall be the duty of the Secretary of the Interior upon the presentation of a petition signed by at least one-third of the voters of the tribe, and approved by the Council, to call an election on any proposed amendment.

BY-LAWS OF THE WHITE MOUNTAIN APACHE TRIBE OF THE FORT APACHE INDIAN RESERVATION

ARTICLE I—DUTIES OF OFFICERS

SECTION 1. The Chairman of the Tribal Council shall preside over all meetings of the Council, shall perform all duties of a Chairman and exercise any authority delegated to him by the Council. He shall have the privilege of voting.

SEC. 2. The Vice-Chairman shall assist the Chairman when called upon to do so, and in the absence of the Chairman he shall preside. When so presiding he shall have all the rights, privileges, duties and responsibilities of a Chairman.

SEC. 3. The Secretary of the Tribal Council shall conduct all tribal correspondence, and keep a correct record of all matters transacted in the Tribal Council meetings. It shall be his duty to submit promptly to the Superintendent of the reservation copies of all minutes of regular and special meetings of the Council.

SEC. 4. The Treasurer of the Tribal Council shall accept, receipt for, preserve and safeguard all funds in the custody of the Tribal Council, whether the same be tribal funds or special funds, for which the Tribal Council is acting as custodian or trustee. He shall deposit all such funds and shall make and preserve a faithful record of such funds and shall report on all receipts and expenditures and the amount and nature of all funds in his possession or custody, such report being made in writing, to the Tribal Council at regular meetings and at such other times as requested by the Council. He shall not pay out or otherwise disburse any funds in his possession or

custody or in the possession of the Tribal Council except when properly authorized so to do by a resolution duly passed by the Council. The books and records of the Treasurer shall be audited at least once each year by a competent auditor employed by the Council and at such other times as the Council or the Commissioner of Indian Affairs may direct. The Treasurer shall be required to give a bond satisfactory to the Tribal Council and the Commissioner of Indian Affairs. The Treasurer shall be present at all special and regular meetings of the Tribal Council.

ARTICLE II—COUNCIL MEETINGS

SECTION 1. Regular meetings of the Tribal Council shall be held on the first Monday of each month at the Fort Apache Indian Agency. Special meetings may be called by notice to each Council member a reasonable time before such meeting, signed by the Chairman or by any three members of the Tribal Council, and when so called the Tribal Council shall have the power to transact business as in regular meetings.

SEC. 2. The last regular meeting of the year shall be designated as the annual meeting of the White Mountain Apache Tribe. It shall be the duty of the Chairman of the Council at this meeting to make a report of all activities of the Tribal Council during the past year, and to outline the proposed plan for economic and social betterment of the tribe for the coming year.

SEC. 3. No tribal business shall be transacted unless a quorum is present. A quorum of the Council shall consist of seven of the ten members of the Tribal Council.

ARTICLE III—ORDINANCES AND RESOLUTIONS

SECTION 1. Every ordinance shall begin with the words, "Be it enacted by the Council of the White Mountain Apache Tribe." Every resolution shall begin with the words, "Be it resolved by the Council of the White Mountain Apache Tribe."

SEC. 2. All proposed ordinances of the Council shall be posted in each district at least 10 days before final action by the Council.

SEC. 3. All ordinances and resolutions shall be recorded in a special book and shall be open to public inspection.

ARTICLE IV—RATIFICATION OF CONSTITUTION AND BY-LAWS

This Constitution and By-laws shall be in effect whenever a majority of the adult voters of the tribe, voting at an election called by the Secretary of the Interior, in which at least 30 per cent of the eligible voters shall vote, shall have ratified such Constitution and By-laws and the Secretary shall have approved same.

CERTIFICATION OF ADOPTION

Pursuant to an order, approved June 20, 1938, by the Assistant Secretary of the Interior, the attached constitution and by-laws was submitted for ratification to the members of the White Mountain Apache Tribe of the Fort Apache Indian Reservation, Arizona, and

was on August 15, 1938 duly approved by a vote of 884 for, and 128 against, in an election in which over 30 per cent 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).

ROY CLARK,

Chairman, Tribal Council.

BESSIE PRINTUP,

Secretary, Tribal Council and Constitutional Committee.

CHIEF BAHÁ (His Mark),

Hereditary Chief, White Mountain Apache Tribe.

CARTER JOHNSON,

Witness to Thumb Print.

WM. DONNER,

Superintendent, Fort Apache Agency.

I, Oscar L. Chapman, the Assistant 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 White Mountain Apache Tribe of the Fort Apache Indian Reservation, Arizona.

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 White Mountain Apache Tribe of the Fort Apache Indian Reservation, Arizona.

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

Approval recommended:

FRED H. DAIKER,

Acting Commissioner of Indian Affairs

OSCAR L. CHAPMAN,

Assistant Secretary of the Interior.

[SEAL]

WASHINGTON, D. C., August 26, 1938.

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