

DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS

AMENDED

CONSTITUTION AND BYLAWS

OF THE

SAN CARLOS APACHE TRIBE

OF ARIZONA

EFFECTIVE FEBRUARY 24, 1954

AMENDED
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The Constitution and Bylaws of the San Carlos Apache Tribe of the San Carlos Reservation, Arizona is amended as follows:

PREAMBLE

We, the people of the San Carlos Apache Tribe of the San Carlos Reservation, Arizona, in order to exercise the duties and responsibilities of a representative tribal government, do ordain this Constitution and Bylaws.

ARTICLE I- STATEMENT OF PURPOSE

Section 1. In our relation to the United States Government, a relation similar to that which a town or a county has to State and Federal governments, our own internal affairs shall be managed, insofar as such management does not conflict with the laws of the United States, by a governing body which shall be known as the San Carlos Council.

ARTICLE II- TERRITORY

Section 1. The authority of the San Carlos Apache Tribe shall extend to all of the territory within the boundaries of the San Carlos Reservation and to all lands which may be acquired for the Tribe or which the Tribe may acquire for itself.

ARTICLE III– MEMBERSHIP

Section 1. The membership of the San Carlos Apache Tribe shall consist of:

- (a) All persons who are members of the Tribe on the date when this revised constitution is finally approved.
- (b) All children of one-fourth or more San Carlos Apache Indian blood who are born to resident members, and all children of one-fourth or more San Carlos Apache blood born to non-resident members declare their intention of maintaining membership in the Tribe. The method of declaring intention of membership shall be determined by ordinance of the Council.
- (c) The Council shall have the power to pass ordinances, subject to review by the Secretary of the Interior or his authorized representative governing future membership, loss of membership, and the adoption of members by the San Carlos Apache Tribe.

ARTICLE IV– GOVERNING BODY

Section 1. The governing body of the San Carlos Apache Tribe shall be known as the San Carlos Council and shall consist of a chairman, vice-chairman and nine members and shall be chosen as follows:

Chairman, by popular vote of the Tribe
Three members, by popular vote of the Bylas District;
Two members, by popular vote of the Gilson District;
Two members, by popular vote of the Peridot District;
Two members, by popular vote of the Seven Mile District.

Section 2. *Districts Defined.* For purposes of voting and representation on the Council, the districts shall be defined as follows:

BYLAS DISTRICT shall include all members living in the entire Bylas Community;

GILSON DISTRICT shall include all members living on Gilson Wash west and south of Quarry Wash and north of the Farm Station;

PERIDOT DISTRICT shall include all member living in the community south of the Farm Station and on both sides of the San Carlos River;

SEVEN MILE DISTRICT shall include all members living within the area east of the

Quarry Wash and north of the point where the Quarry Wash runs into the San Carlos River.

Section 3. *Organization of Council.* The Council shall choose, either from within its own membership or from the outside, a secretary, a treasurer, and such other officers as it may consider necessary.

Section 4. The Council, from time to time, may by ordinance change the foregoing number and distribution according to the growth of population.

Section 5. *First Election.* The first election of councilmen under this amended constitution and bylaws shall be held on the next regular election date following the adoption and ratification of the amended constitution and bylaws. In the first election the candidate in each district receiving the highest number of votes shall hold office for four years. The other candidates elected shall hold office for two years. In each regular election, thereafter one candidate shall be elected from each district and shall hold office for a term of four years, except in the Bylas District which shall elect two candidates at every other election, such candidates to hold office for four years.

Section 6. *Term of Council Members.* Members of the Council shall take office on the first Tuesday of the first month after their election.

Section 7. *Council Chairman and Vice Chairman.* The Chairman and Vice-Chairman of the Tribal Council shall be elected for a term of four years by popular vote of the Tribe. Candidates for such office shall possess the qualifications required of candidates for Council membership, as set forth in Articles II of the Bylaws, except as to residence. The candidates for Chairman and Vice-Chairman of the Tribal Council shall take office on the same day that the council members take office.

ARTICLE V– POWERS OF THE COUNCIL

Section 1. The San Carlos Council shall have the following powers:

- (a) To represent the Tribe and act in all matters that concern the welfare of the Tribe, and to make decisions not inconsistent with or contrary to this Constitution and Bylaws or the Constitution and Statutes of the United States;
- (b) To negotiate and make contracts with the Federal, State and local governments;
- (c) To advise the Secretary of the Interior or his representative on all activities that may affect the San Carlos Reservation, and on all appropriation

estimates and Federal projects for the benefit of the Tribe before such estimates and projects are submitted to the Bureau of the Budget and to Congress;

- (d) To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior, so long as such approval is required by Federal Law;
- (e) To veto the sale, disposition, lease or encumbrance of tribal lands, interest in lands, tribal funds or other tribal assets that may be authorized by any agency or employee of the government;
- (f) To protect and preserve the wildlife and natural resources of the Tribe; to regulate hunting and fishing on the reservation;
- (g) To cultivate Indian arts, crafts and cultures;
- (h) To administer charity;
- (i) To regulate the uses and disposition of tribal property and funds, provided, that any grant or lease of any portion of the Reservation for grazing purposes or relinquishment of any water rights on the Reservation must be authorized by a two-thirds majority of tribal votes cast in an election called by the tribal council for that purpose and, provided further, that the total vote cast shall be not less than three-fifths of the total eligible voters;
- (j) To manage all tribal economic affairs and enterprises in accordance with the terms of the Corporate Charter of the Tribe;
- (k) To levy and collect taxes;
- (l) To appropriate tribal funds for public purposes;
- (m) To enact ordinances, subject to review by the Secretary of the Interior, establishing and governing tribal courts and law enforcement on the Reservation; regulating domestic relations of members of the Tribe, but all marriages shall be in accordance with State laws; providing for appointment of guardians for minors and mental incompetents; regulating the inheritance of real and personal property of members of the Tribe within the Reservation; and providing for the removal or exclusion from the Reservation of any non-member of the Tribe whose presence may be injurious to the people of the Reservation;

- (n) To enact ordinances governing the activities of voluntary associations consisting of members of the Tribe organized for purposes of cooperation or other purposes;
- (o) To regulate its own procedures; to appoint subordinate committees, commissions, boards, tribal officials and employees not otherwise provided for in this Constitution and Bylaws; and to prescribe their salaries, tenure and duties; to charter and to regulate subordinate organizations for economic and other purposes;
- (p) The Council may exercise such further powers as may be delegated to the San Carlos Apache Tribe by the Secretary of the Interior or by any other qualified official or agency of the Government;
- (q) The foregoing enumeration of powers shall not be construed to limit the powers of the San Carlos Apache Tribe, and such powers may be exercised through the adoption of bylaws or constitutional amendments.

ARTICLE VI-- REVIEW BY THE SECRETARY

Section 1. 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 within six days after the passage by the Council. The Superintendent shall, within six days after its receipt, 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 and the date of his signature was affixed thereto, 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 council of such rescission. If the Secretary shall fail to act within the 90-day period, the ordinance or resolution shall remain in effect as of the date of the Superintendent's approval.

If the Superintendent shall refuse to approve any resolution or ordinance submitted to him, within six days after its receipt, he shall advise the Council of his reasons therefor. If these reasons appear to the tribal council insufficient, it may, by a majority vote, refer the ordinance or resolution to the Secretary of the Interior, who may, within 90 days from the reenactment date approve the same in writing, whereupon the said ordinance or resolution shall become effective.

ARTICLE VII-- RIGHTS OF MEMBERS

Section 1. All members of the San Carlos Apache Reservation shall be accorded equal

political rights and equal opportunities to participate in the economic resources and activities of the tribe, and no person shall be denied freedom of conscience, speech, association or assembly or the right to petition for the redress of the grievances.

ARTICLE VIII– ELECTIONS

Section 1. *Regular Elections.* Regular elections to vote for councilmen shall be held every two years on the first Tuesday in April. Regular elections to vote for Chairman and Vice-Chairman shall be held every four years on the first Tuesday in April.

Section 2. *Special Elections.* Special elections shall be held upon call by the Tribal Council as provided in Article IX, and notice of them shall be given as in the case of general or regular elections.

Section 3. *Notice.* All elections shall be announced by special notice posted at least thirty days before the election at the voting places and other convenient public places.

Section 4. The voting places shall be: one at San Carlos Agency and another at Bylas and others as may be established by the Council.

Section 5. *Candidates.* Names of Candidates nominated by the districts for their councilmen shall be posted for a period of at least twenty days prior to election.

Section 6. *Nomination of Chairman and Vice-Chairman.* At least twenty days before nominations of candidates for council membership are made at district meetings, not more than four candidates nor less than two for each office of Chairman and Vice-Chairman shall be nominated at a general mass meeting called for that purpose.

Section 7. *Nomination of Council Members.* Nominations shall be made at mass meetings of the respective district for the office of councilman. Each district shall nominate at least four candidates for each position of councilman.

Section 8. *Manner of Voting.* All elections shall be by written ballot.

The Council shall have the power to prescribe ordinances governing the casting and canvassing of ballots, the manner of conducting district meetings for nomination, and other necessary details of election procedures covering elections of councilmen and offices and referendum elections.

ARTICLE IX– REMOVAL FROM OFFICE

Section 1. *Forfeiture of Office.* If a Chairman or Vice-Chairman or member of the Council fails or refuses to attend two regular meetings in succession unless excused due to

illness or other causes for which he cannot be held responsible, or shall be convicted of a felony or of a misdemeanor involving moral integrity, his office shall be forfeited, and a special election called by the Council shall be held to replace him.

Section 2. *Removal from Office.* If a Chairman or Vice- Chairman or member of the Council shall fail in the performance of the duties assigned to him, he may be subject to recall. The Council may by a two-thirds vote, after affording the accused member a fair opportunity to be heard in his own defense, require such member to stand for reelection of the district which he represents.

Section 3. *Resignation and Replacement.* Any councilman resigning or by death taken out of his office shall be replaced only by a special election in the respective district.

ARTICLE X– RESERVATION LAND

Section 1. The reservation land shall as a whole remain tribal property and shall not be divided by allotment of any parts to individuals as private property that could be sold at will; 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, that the rights of all members of the tribe be not violated.

ARTICLE XI– REFERENDUM

Section 1. Upon a petition of at least fifty percent of the eligible voters of the Tribe, or upon the request of the majority of the members of the Tribal Council, any enacted or proposed ordinance or resolution of the Tribal Council shall be submitted by the Council to a popular referendum and the vote of the majority of the qualified voters in such referendum shall decide whether the ordinance or resolution shall thereafter be in effect and subject to Secretarial review where such review is required: Provided, that one-half or more of the eligible voters shall vote in such referendum.

ARTICLE XII- AMENDMENTS

Section 1. This Constitution and Bylaws may be amended by a majority vote of the qualified voters of the Tribe voting at 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, or upon receipt of a petition signed by one-third of the qualified voters of the Tribe.

**BYLAWS OF THE SAN CARLOS APACHE TRIBE
OF ARIZONA**

ARTICLE I– DUTIES OF OFFICERS

Section 1. *Chairman of the Council.* The Chairman of the Council shall preside over all meetings of the Council, shall perform all duties of a Chairman and exercise any authority given him specifically by the Council or by a general meeting of the Tribe. The Chairman shall have the power to vote.

Section 2. *Vice- Chairman.* In the absence of the regular Chairman the Vice-Chairman shall preside and have all powers, privileges and duties of the Chairman. He shall have power to vote at any meeting.

Section 3. *Secretary.* The secretary shall conduct all tribal correspondence and it shall be his duty to submit promptly to the Superintendent of the jurisdiction and other appropriate offices of the Bureau of Indian Affairs, copies of all minutes of regular and special meetings of the Council.

Section 4. *Treasurer.* (a) The Treasurer shall accept, receipt for, keep and safeguard all funds in the custody of the Council. He shall deposit all such funds as directed by the San Carlos Council and shall keep an accurate record of such funds and shall report on all receipts and expenditures and the amount and nature of all funds in his custody to the Council at regular meetings and at such other times as requested by the Council. He shall not pay or otherwise disburse any funds in custody of the Council except when properly authorized to do so by the Council.

(b) The books and records of the treasurer shall be audited at least once a year by a competent auditor employed by the Council, and at such other times as the Council may direct.

(c) The treasurer shall be required to give a surety bond satisfactory to the Council and the Commissioner of Indian Affairs or his authorized representative.

(d) The treasurer shall be present at all meetings of the Council unless prevented by circumstances beyond his control.

(e) All checks shall be signed by the treasurer and shall be countersigned by the Chairman of the Council, or in his absence by some other office designated by the Council.

ARTICLE II– QUALIFICATIONS OF COUNCILMEN

Section 1. Any member of the Tribe who is not employed by the Federal or State

government, who has reached the age of twenty-five years, who is a resident of the district which he is to represent, and who is able to read and write, shall be qualified to be a candidate for election to Council. No person who has been convicted of a felony, or who within the last year preceding the election has been convicted of a misdemeanor involving moral integrity shall be eligible to hold office in the Council. The following misdemeanors and no others shall be considered misdemeanors involving moral integrity: adultery, bribery, embezzlement, extortion, fraud, forgery, misbranding, perjury and theft.

ARTICLE III– MEETINGS OF THE COUNCIL

Section 1. *First Meeting.* At the first meeting of the Council after a regular election, the Council shall see that all members have a correct and clear understanding of the Constitution and Bylaws and the management of the tribal and reservation affairs, as well as the rules for the conduct of their own body.

Section 2. *Regular Meeting.* The Council shall meet officially on regular meeting dates which shall be on the first Tuesday in each month at nine o'clock a.m. In case the time of the regular Council meeting on the first Tuesday of each month should conflict with a national, state or tribal election, or shall fall on a holiday, the meeting shall be held on the following Wednesday.

Section 3. *Special Meetings.* Special Meetings of the Council may be called by the Chairman, or the Chairman shall call a special meeting upon written request of three or more members of the Council.

Section 4. *Conduct of Business.* In the conduct of business, recognized rules of order shall apply. Voting at the Council meeting may be by voice, but at the discretion of the Chairman or upon the request of any two members of the Council.

Section 5. *Quorum.* Matters of business for the Council shall be decided by a majority vote. A quorum (a number competent to transact business) of the Council shall be constituted if six or more members are present.

Section 6. *Restricting of voting in the Council.* In any matter coming before the Council which involves the Indian Bureau or any person or company, no member of the Council that may be permanently connected with the party so involved shall be permitted to vote without the special consent of the remaining members of the Council.

ARTICLE IV– MEETINGS OF THE TRIBE

Section 1. The Council shall from time to time call meetings of all voters of the Tribe to lay before them such matters as may come before such a general meeting. A general meeting of the Tribe shall be called upon request of a majority of the qualified voters of

any district.

ARTICLE V– LAW AND ORDER

Section 1. It shall be the duty of the Council to provide through the necessary bylaws or ordinances for the establishment of a tribal court upon the reservation.

Section 2. This court shall have jurisdiction of such petty offenses, not falling within the exclusive jurisdiction of the Federal or State courts, as may be enumerated in the ordinances or bylaws of the Tribe.

Section 3. This court shall have jurisdiction over all disputes between Indians on the reservation , and over such disputes between Indians and non-Indians as may be brought before the court by stipulation.

Section 4. The duties, jurisdiction, and procedure of this court shall be more fully set forth by bylaws or ordinances.

Section 5. The judges of this court shall be appointed by the Tribal Council.

Section 6. It shall be the duty of the Council to establish by ordinances a tribal police force. Such ordinances shall outline in detail the authority and duties of such tribal police force and the manner in which such police force shall be selected by the Council.

ARTICLE VI- FEDERAL EMPLOYEES

Section 1. The Council shall request the Superintendent to furnish it with the names of all civil service probationers or temporary employees under civil service regulations on the San Carlos Reservation that are nearing the end of their probationary periods, and shall advise with the Superintendent in the matter of their being given permanent positions as civil service employees on the Reservation.

ARTICLE VII– ADOPTION

Section 1. This revised Constitution and Bylaws, when adopted by a majority vote of the qualified voters of the San Carlos Apache Tribe of the San Carlos Reservation, voting at a special election called by the Secretary of the Interior, in which at least thirty 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 December 15, 1953, by the Assistant Secretary of the Interior, the foregoing amended Constitution and Bylaws of the San Carlos Apache Tribe was submitted for adoption to the qualified voters of the San Carlos Apache Tribe and was on February 23 and 24, 1954, duly ratified by a vote of 405 for, and 402 against, in an election in which at least thirty percent of a total of 1,606 eligible voters 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 (40 Stat 378).

**AMENDMENT
AMENDED CONSTITUTION AND BYLAWS
OF THE
SAN CARLOS APACHE TRIBE
OF ARIZONA**

Amendment I

Section 1, Regular Election of Article VIII, ELECTIONS, shall be amended in its entirety to read as follows:

ARTICLE VIII – ELECTIONS

Section 1. A. Regular Elections. Regular elections to vote for councilmen shall be held every two years on the first Tuesday in November. Regular elections to vote for Chairman and Vice-Chairman shall be held every four years on the first Tuesday in November.

B. Persons elected to the office of Chairman, Vice-Chairman and Tribal Council during the 1980 and 1982 general elections or any person elected to fill a vacancy in such office shall serve an additional seven months in their respective offices from the first Tuesday in May in the last year of each term of office up to the first Tuesday in December. Those parts of Article IV, Sections 5 and 7 of the San Carlos Apache Amended Constitution, which specify terms of four years for Chairman, Vice-Chairman and Council members shall be suspended as to those terms of office modified by this Amendment, but for all succeeding terms of office shall remain in full force and effect.