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9/27/94

## YAVAPAI-APACHE CODE (YAC)

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# United States Department of the Interior

BUREAU OF INDIAN AFFAIRS  
Washington, D.C. 20240



IN REPLY REFER TO:

Tribal Government Services - TR  
2612 MS/MTB

APR 13 1992

THROUGH: PHOENIX AREA DIRECTOR

Mr. Danny Brueninger  
Superintendent, Truxton Canon Agency  
Bureau of Indian Affairs  
P.O. Box 37  
Valentine, Arizona 86437

Dear Mr. Brueninger:

We have received the results of the election held on March 7, 1992, by the qualified voters of the Yavapai-Apache Indian Community. The election was called in accordance with an order issued on December 4, 1991, by the Acting Director, Office of Tribal Services, and reissued on January 28, 1992, which permitted the qualified voters of the Yavapai-Apache Indian Community to vote on the adoption or rejection of a revised constitution.

As evidenced by the completed Certificate of Results of Election, the Constitution of the Yavapai-Apache Nation was duly adopted by a vote of 86 for and six against in an election in which at least 30 percent of the 157 members registered and entitled to vote cast their ballots.

The Constitution of the Yavapai-Apache Nation is hereby approved pursuant to the authority granted to the Secretary of the Interior by the Act of June 18, 1934 (48 Stat. 984), as amended, and delegated to me by 230 D.M. 2.4. Please deliver the enclosed approved original document to the tribe.

Sincerely,

Acting Director, Office of Tribal Services

Enclosure



# United States Department of the Interior

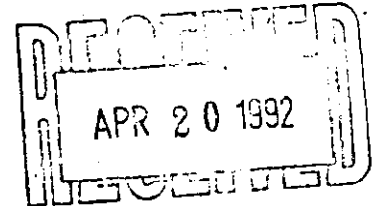
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Sincerely,

S/ DENISE HOMER

Director, Office of Tribal Services

Enclosure

cc: Area Director, Phoenix  
Superintendent, Truxton Canon  
Chairman, Yavapai-Apache Tribal Council  
Assistant Solicitor, Tribal Govt. & Alaska, MIB-6456  
Chief, Branch of Tribal Enrollment

## CONSTITUTION OF THE YAVAPAI-APACHE NATION

### PREAMBLE

We the people of the Yavapai-Apache Nation, also called the Yavapai-Apache Tribe, of the Verde Valley, Arizona, do hereby adopt this constitution in order to:

- o promote the common welfare of our Tribe,
- o protect our people, land and natural resources now and in the future,
- o acquire additional lands for the benefit of the Tribe,
- o protect our Indian heritage including our religion, customs, and language,
- o preserve, secure and exercise all the inherent sovereign rights and powers of an Indian tribe.

This constitution shall supersede the Constitution and By-laws of the Yavapai-Apache Indian Community, Arizona, adopted October 24, 1936, and approved by the Secretary of the Interior on February 12, 1937, as amended June 21, 1947 and approved August 15, 1947, and shall govern the Yavapai-Apache Tribe from its effective date.

### ARTICLE I - JURISDICTION

The jurisdiction of the Yavapai-Apache Tribe shall extend to all lands within the boundaries of the Camp Verde Indian Reservation and to any and all lands held by the Tribe, trust allotments located outside the reservation boundaries to the extent permitted by federal law, and to any additional lands acquired by the Tribe or by the United States for the benefit of the Tribe, except where expressly prohibited by federal law. It is hereby declared that the title to these lands includes but is not limited to all the surface rights, subsurface rights, tenements, hereditaments, all water rights and all accretions. Except as prohibited by federal law, the Yavapai-Apache Tribe shall have jurisdiction over all persons, property, lands, water, air space, resources and all activities occurring within the boundaries of the reservation or on other lands within the jurisdiction of the Tribe, notwithstanding the issuance of any right-of-way. Nothing in this Article shall be construed to limit the ability of the Tribe to exercise its jurisdiction based upon its inherent sovereignty as an Indian Tribe.

### ARTICLE II - MEMBERSHIP

Section 1. Requirements. The membership of the Yavapai-Apache Tribe shall consist of the following:

- (a) All persons of Indian blood whose names appear on the official census roll as of April 1, 1934, with the supplement thereto of January 1, 1936.
- (b) All children born to any member who are one fourth (1/4) or more Indian blood.
- (c) All persons who are one fourth (1/4) or more Yavapai-Apache Indian blood.
- (d) All persons who qualified for and were accepted into membership under the membership requirements contained in the Constitution and By-laws of the Yavapai-Apache Indian Community, Arizona, adopted October 24, 1936, and approved by the Secretary of the Interior on February 12, 1937, as amended on June 21, 1947, and approved August 5, 1947.

Section 2.        Adoption.

- (a) The Tribal Council shall have the power to pass ordinances covering the adoption of new members, Provided, That all persons adopted under this section shall meet at a minimum the following requirements:
  - (1) must have resided on the reservation for at least one (1) year, and
  - (2) must be Indian, and
  - (3) must be a person in good standing within the community.
- (b) Except as provided in Section 2 (c), persons who meet the criteria listed in Article II, Section 2 (a) (1-3) are not automatically entitled to become members of the Tribe. The Tribal Council shall have sole discretion in determining whether a person shall be adopted into the Tribe. Denials of petitions for adoption shall not be appealable to Tribal Court.
- (c) Spouses of tribal members and children adopted by tribal members as officially established by Tribal Court order, who meet the criteria listed in Article II, Section 2 (a) (1-3), shall be eligible for adoption into the Tribe. Denials of petitions for membership of persons seeking to be adopted under this section shall be executed in writing and may be appealed to the Tribal Court. The Tribal Court shall overturn the Tribal Council's decision only when such decision is arbitrary and capricious.

Section 3. Proof of Paternity or Maternity. Proof of paternity or maternity for purposes of tribal membership shall be established through the Tribal Court but only when such proof is requested by the Tribal Council.

Section 4. No Dual Enrollment. No person who is an enrolled member of another Indian Tribe shall be eligible for membership in the Yavapai-Apache Tribe. Any person who is denied membership in the Yavapai-Apache Tribe based upon a finding that the person in question is an enrolled member of another Indian tribe shall have the right to appeal that finding to the Tribal Court which shall have jurisdiction over these matters.

Section 5. Admission Procedures. The Tribal Council shall have the power to pass an ordinance to implement and enforce the membership sections listed in this constitution. Applicants denied admission may appeal to the Tribal Court except when prohibited by this constitution.

### ARTICLE III - ORGANIZATION OF THE GOVERNMENT

Section 1. Three Branches of Government. The Yavapai-Apache government shall be divided into three (3) separate and independent branches of government: the Legislature, the Judiciary and the Executive Department. No person or group of persons charged with the exercise of powers properly belonging to one of these departments shall exercise any of the powers properly belonging to either of the others, except as this constitution may otherwise expressly direct or permit.

### ARTICLE IV - THE TRIBAL COUNCIL

Section 1. Legislative Body. The legislative body of the Yavapai-Apache Tribe shall be known as the Yavapai-Apache Tribal Council and shall consist of nine (9) members which includes the Chairperson and Vice Chairperson. All members of the Tribal Council shall have the power to vote.

Section 2. Terms of Office. The terms of office for all Tribal Council members including the Chairperson and Vice Chairperson shall be three (3) years. All Tribal Council members shall be eligible to serve two (2) consecutive terms, whether full or partial terms. At the completion of his second (2nd) consecutive term, a council member shall not be eligible to run for reelection or be eligible to fill a vacancy until a period of one (1) year has elapsed. The limitation on serving on the Tribal Council for longer than two (2) consecutive terms shall not be applied retroactively but shall commence from the date of final approval of this constitution.

Section 3. Selection of Secretary and Treasurer. The Tribal Council shall choose a Secretary and a Treasurer from within or without the tribal membership, Provided, That officials elected from outside the Tribal Council membership shall have no vote in the Tribal Council.

Section 4. Meetings of the Council.

- (a) A regular meeting of the Tribal Council shall be held once a month on a date designated by the Chairperson.
- (b) The Chairperson or any three or more members of the Tribal Council may, by written notice, call special meetings of the Tribal Council.

Section 5. Quorum. Six (6) or more members of the Tribal Council shall constitute a quorum at any regular or special meeting. A quorum is required at all meetings in order to conduct official business of the Tribal Council. Proxy voting shall be prohibited.

Section 6. Removal.

- (a) The Tribal Council may suspend or remove a council member for the following reasons so long as the actions in question take place during the council member's term of office:
  - (1) Failure to attend three (3) regular or special meetings consecutively absent good cause as defined by ordinance which shall include provisions for leave for the following reasons: sickness, vacation, death in the immediate family, failure to receive adequate notice of the meeting.
  - (2) Final conviction by any Tribal, Federal, or State Court of any of the following offenses:
    - (A) a felony,
    - (B) any sex related crime,
    - (C) drunk and disorderly conduct or its equivalent,
    - (D) three (3) misdemeanors while serving on the Tribal Council,
    - (E) contempt of court.
  - (3) Gross neglect of duty or gross misconduct.



- (b) A Tribal Council member appealing a conviction of an offense listed in Article IV, Section 7(a) (2) (A-E) shall be suspended pending the outcome of the final appeal.
- (c) A Tribal Council member suspended or removed under Article IV, Section 7(a) (1) or (2) shall be by majority vote of the Tribal Council. A Tribal Council member suspended or removed under Article IV, Section 7 (a) (3) shall be by a vote of at least seven (7) members of the Tribal Council.

Section 7. Recall.

- (a) Any member of the Yavapai-Apache Tribe of voting age shall have the power to initiate recall proceedings against a Tribal Council member by filing with the Election Board a written statement in one-hundred (100) words or less giving specific reasons why the Tribal Council member in question should be recalled.
- (b) All recall proceedings subsequent to the filing of a recall petition shall be administered by the Election Board. The Tribal Council shall not have jurisdiction over recall proceedings and it shall not exercise its authority to remove members of the Election Board in such a way as to impede a recall proceeding.
- (c) The Election Board shall issue official petition forms to the petitioners who shall have sixty (60) days to collect the signatures from thirty-five (35) percent of the eligible voters of the Tribe.
- (d) Each eligible voter of the Tribe shall have the right, exercisable freely and without constraint or coercion of any kind, to participate in proceedings for the recall of any elected tribal official.
- (e) Individual petitions shall be circulated for each Tribal Council member who is subject to recall.
- (f) The Election Board shall verify the signatures on a recall petition within ten (10) days of receipt of a recall petition. The person subject to recall may file a written response to the charges alleged in the petition in accordance with the applicable provisions of the recall ordinance. The written response must be mailed to the voters along with the notices of the recall election but only when such notices are required to be mailed to the voters.

- (g) A recall meeting shall be held in accordance with the provisions of the recall ordinance. A recall meeting shall be considered a special election and shall be conducted in accordance with all applicable provisions of this constitution and appropriate ordinances. The ballots used at the recall meeting shall state the reasons for the recall and any response by the person subject to recall. A majority vote of the eligible voters attending the recall meeting shall determine the success or failure of the recall petition(s); Provided, That at least thirty-five (35) percent of the eligible voters actually vote at the recall meeting. The Election Board shall certify the election results.
- (h) The results of the recall election shall be final. The Tribal Court shall have exclusive jurisdiction to hear any challenge to the recall election or to hear any complaint against the Election Board or its members based upon its conduct of the recall proceeding. Any challenge or complaint shall be filed in a timely manner as established by ordinance. The Tribal Court shall hear and decide the challenge to the recall election within thirty (30) days of the date the complaint is filed.
- (i) A Tribal Council member who is successfully recalled must wait one (1) year before being eligible to run for office again or to be appointed to fill a vacancy.

Section 8. Conflict of Interest. Any Tribal Council member who may have a direct personal or financial interest in any matter before the Tribal Council not similarly shared by all members of the Tribal Council shall not vote on such matter without the consent of the remaining members of the Tribal Council. Failure to reveal a conflict of interest may constitute a violation of Article IV, Section 7 (a) (3).

Section 9. Code of Ethics. The Tribal Council shall have the power to adopt a Code of Ethics governing the conduct of tribal officials. The Code of Ethics may include disciplinary procedures, subject to section 7 of this Article, so long as the tribal official in question is afforded full due process rights.

#### ARTICLE V - POWERS OF THE TRIBAL COUNCIL

The Tribal Council shall have all legislative powers vested in the Yavapai-Apache Tribe through its inherent sovereignty and shall, in accordance with established practices of the Tribe and subject to the express limitations contained in this constitution and the applicable laws of the United States, have the following powers:

- (a) To represent the Tribe and act in all matters that concern the health and welfare of the Tribe, and to make decisions not inconsistent with or contrary to this constitution;
- (b) To negotiate with Federal, State and local governments;
- (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, but only so long as such approval is required by federal law;
- (d) To regulate its own procedures;
- (e) To regulate the use and disposition of all land within the jurisdiction of the Tribe, including but not limited to the enactment of ordinances providing for the manner of making, holding and revoking assignments of tribal lands and interests therein;
- (f) To veto any sale, disposition, lease or encumbrance of tribal lands, interests in lands, or other tribal assets without the formal consent of the Tribe;
- (g) To request the Secretary of the Interior to confer trust or reservation status on lands reserved for, granted to or purchased by the Tribe;
- (h) To advise the Secretary of the Interior or his representative on all activities that may affect the Yavapai-Apache Tribe, and on all appropriation estimates and federal projects for the benefit of the Tribe before such estimates and projects are submitted to the Office of Management and Budget and to Congress;
- (i) To manage all tribal economic affairs and enterprises;
- (j) To levy and collect taxes, duties, fees and assessments;
- (k) To appropriate and regulate the use of tribal funds;
- (l) To regulate hunting, fishing, trapping, camping, recreation, hiking and all other related activities on lands within the jurisdiction of the Tribe;
- (m) To enact ordinances regulating animals which are in the control of persons within the jurisdiction of the Tribe;
- (n) To regulate domestic relations of persons within the jurisdiction of the Tribe;

- (o) To enact codes and ordinances governing law enforcement on lands within the jurisdiction of the Tribe;
- (p) To appoint subordinate committees, commissions, boards, tribal officials and employees not otherwise provided for in this constitution, and to prescribe their compensation, tenure, duties, policies and procedures;
- (q) To determine all terms and conditions of employment for all persons employed by the Tribe through the adoption of appropriate ordinances and subject to Article VII of this constitution;
- (r) To issue and to regulate motor vehicle license plates;
- (s) To accept grants and donations from any person, organization, State or the United States;
- (t) To enact ordinances providing for the removal or exclusion of any non-member of the Tribe for cause, and to prescribe conditions upon which non-members may remain within the territory of the Tribe, Provided, That all actions of exclusion or removal shall be done by filing an action in Tribal Court;
- (u) To exercise civil jurisdiction over all tribal members and any non-member of the Tribe to the extent permitted by federal law;
- (v) To enact laws, ordinances and resolutions necessary or incidental to the exercise of its legislative powers;
- (w) To take any and all actions necessary and proper for the exercise of the foregoing powers and duties, including those powers and duties not enumerated above, and all other powers and duties now or hereafter delegated to the Tribal Council, or vested in the Tribal Council through its inherent sovereignty.

<sup>VI</sup>  
ARTICLE ~~IV~~ - THE JUDICIARY

Section 1. The Judiciary. The judicial power of the Yavapai-Apache Tribe shall be vested in the judiciary which shall consist of a Tribal Court and a Court of Appeals and other lower courts as deemed necessary by the Tribal Council.

Section 2. Jurisdiction of the Court. The tribal courts shall exercise jurisdiction over all cases and controversies, whether civil or criminal in nature, within the jurisdiction of the Tribe, in law and equity, that arise under this document, the laws of the Tribe, by virtue of the Tribe's inherent sovereignty, or which are vested in the tribal courts by federal law.

Section 3. Power of the Courts. The Yavapai-Apache judiciary shall have the power to:

- (a) Interpret, construe and apply the laws of, or applicable to, the Yavapai-Apache Tribe;
- (b) Declare the laws of the Yavapai-Apache Tribe void if such laws are not in agreement with this constitution;
- (c) Issue injunctions, attachments, writs of mandamus, quo warranto, review, certiorari and prohibition, and to issue writs of habeas corpus to any part of the Yavapai-Apache Tribe upon petition by, or on behalf of, any person held in actual custody;
- (d) Establish court procedures for the Yavapai-Apache judiciary except that the Tribal Council may by ordinance alter such procedures consistent with this constitution.

Section 4. Composition of the Court. The Yavapai-Apache Tribal Court shall be composed of one Chief Judge and such Associate Judges as may be determined necessary by the Tribal Council.

Section 5. Appointment of Judges. The Tribal Council shall appoint three (3) Appellate Judges, one (1) Chief Judge and as many Associate Judge(s) as deemed necessary. Should a vacancy occur through death, resignation, or otherwise, for the position Appellate Judge(s), Chief Judge, or Associate Judge(s), the Tribal Council shall appoint a person or persons to fill such vacancy or vacancies.

Section 6. Term of Office. The Chief Judge of the Tribal Court, and any Associate Judge(s), shall hold office for a period of two (2) years. The Chief Judge of the Court of Appeals shall hold office for three (3) years. The remaining two (2) Appellate Judges shall hold office for two (2) years. All Judges shall remain in office for the duration of their term unless sooner removed under Section 11 or by reason of abandonment of the office. All Judges shall be eligible for re-appointment.

Section 7. Court of Appeals. The Yavapai-Apache Tribal Court of Appeals shall consist of one or more Judges selected in sequential order from a list of available Court of Appeals Judges. The Court of Appeals shall always consist of an odd number of Judges. No Judge shall sit on a Court of Appeals if he presided over the original proceedings or if disqualified under Section 10.

Section 8. Qualifications of Judges. The qualifications for tribal Judges shall be established by ordinance enacted by the Tribal Council, but no additional requirements may be added during the tenure of a Judge already in office, unless the additions or changes exempt the present Judges during their term.

Section 9. Compensation. The Judge(s) shall receive for their services reasonable compensation. The Tribal Council shall not diminish the compensation of a Tribal Judge during his term in office.

Section 10. Disqualification to Act. No Judge shall be qualified to act in any case wherein he has any direct interest or wherein any relatives by marriage or blood in the first degree is a party.

Section 11. Removal of Judges.

(a) Any Judge of the Yavapai-Apache Tribal Court may be suspended, dismissed or removed by the Tribal Council for any of the following reasons:

1. conviction of a felony in any Tribal, federal or State Court;
2. conviction of any two (2) misdemeanors in any Tribal, federal or State Court;
3. performing his official duties while under the influence of alcoholic beverages;
4. failure to disqualify himself under Article VI, Section 10;
5. unnecessary and repeated lengthy delays in hearing and adjudicating matters filed in Tribal Court;
6. violating Article VIII, Section 17 of this constitution;
7. for good cause by at least seven (7) members of the Tribal Council.

- (b) A Judge shall be given full and fair opportunity to reply to any and all charges for which he may be suspended, dismissed or removed from judicial office.
- (c) A Judge suspended, dismissed or removed under Article VI, Section 11(a) (1-6) may appeal directly to the Tribal Court of Appeals which shall have jurisdiction over such matters. Removal of a Judge under Article VI, Section 11 (a) (7) shall be determined solely by the Tribal Council.

Section 12. Right to Appeal. Any party to a civil action, or a defendant in a criminal action, who is dissatisfied with the judgment or verdict may appeal therefrom to the Yavapai-Apache Tribal Court of Appeals. All matters of law and procedure may be decided by the Court of Appeals. Findings of fact shall be made by the Trial Court and shall be reviewable only when arbitrary or capricious.

Section 13. Court Rules. The duties and procedures of the tribal court system, and all other court matters not enumerated in this section of the constitution, shall be established by the Yavapai-Apache judiciary, except that the Tribal Council may by ordinance alter such procedures consistent with this constitution.

Section 14. Revised Law and Order Code. Within twelve (12) months after the adoption this constitution, the Tribal Council shall revise and update the tribal law and order code. The law and order code shall be reviewed by the Tribal Council every two (2) years thereafter.

#### ARTICLE VII - THE EXECUTIVE DEPARTMENT

Section 1. Executives. The Executive Department shall consist of the Chairperson, Vice Chairperson, Secretary and Treasurer of the Tribal Council and such other persons as the Tribal Council or their designee may find necessary for the administration of tribal business. The Chairperson shall be in charge of the Executive Department in accordance with Section 2 of this Article.

Section 2. Duties.

- (a) The Chairperson shall make all decisions regarding personnel within the Executive Department, Provided, That decisions regarding departmental directors shall also need the concurrence of the Tribal Council.
- (b) The Executive Department shall oversee the administration of tribal business and shall exercise those authorities delegated to it by the Tribal Council unless otherwise provided in this constitution.

## ARTICLE VIII - ELECTIONS

Section 1. Nominations. Any enrolled member of the Yavapai-Apache Tribe may nominate himself as a candidate for Tribal Council by submitting his name, along with twenty-five (25) signatures from tribal members, to the Election Board. All other procedures of nomination including timeframes, official nomination forms, and verification of signatures, shall be conducted in accordance with an ordinance adopted by the Tribal Council.

Section 2. Election Board. The Tribal Council shall appoint an Election Board to conduct all elections including all special elections.

Section 3. Qualifications for Office.

- (a) Any member of the Yavapai-Apache Tribe shall be eligible to run for tribal office if he:
  - (1) is at least twenty-five (25) years of age, and
  - (2) is a resident of the reservation for at least two (2) years or has resided within ten (10) miles of any lands within the jurisdiction of the Tribe for at least two (2) years, and
  - (3) has no misdemeanor convictions within the last five (5) years or felony convictions within the last fifteen (15) years, and
  - (4) has a high school degree or its equivalent, or has sufficient experience for a position on the Tribal Council.
- (b) The requirement of sufficient experience shall be demonstrated to the Election Board. The Election Board shall base its decision on the experience of the prospective candidate relevant to the duties of the Tribal Council.
- (c) If the Election Board decides that a prospective candidate does not have sufficient experience it shall do so in writing giving specific reasons for its decision. An adverse decision by the Election Board may be appealed to the Tribal Court.



Section 4. Primary Elections.

- (a) In any general election where three (3) or more candidates are seeking the position of Chairperson, or the position of Vice Chairperson, there shall be a primary election held at least forty-five (45) days before the annual general election. A person may not run for both positions of Chairperson and Vice Chairperson in the primary election. A primary election shall not be held for other council member positions but shall be limited to the positions of Chairperson and Vice Chairperson. The primary election shall narrow the list of candidates for Chairperson or Vice Chairperson down to two (2) candidates who shall be the candidates in the annual general election. A primary which results in a tie between two (2) or more candidates shall be decided in the general election. Candidates eliminated during the primary election may still seek the position of council member, Provided, That no new nomination petition shall be necessary.
- (b) Incumbent Tribal Council members who are not up for reelection may run in the primary election for the position of Chairperson or Vice Chairperson without resigning their Tribal Council member seat. Incumbent Tribal Council members who run successfully in the primary shall resign their Tribal Council member seat within three (3) days of the certification of the primary election results and the resulting vacancy shall be filled in the upcoming annual general election.

Section 5. General Elections. Annual general elections to vote for upcoming vacancies on the Tribal Council shall be held on the third Saturday of September.

Section 6. Special Elections. Special elections shall be held when called for by the Tribal Council, by this constitution, or by the voters as provided in this constitution or appropriate ordinances. In all special elections, adequate notice shall be given to the voters.

Section 7. The First Election. The first election of Tribal Council members under this constitution shall be held on the third Saturday of September 1992. All nine (9) Tribal Council positions shall be declared vacant for purposes of the first election. All candidates for these positions shall indicate during their nomination whether they wish to serve as Chairperson, Vice Chairperson, or council member. A candidate may run for one (1), two (2), or all three (3) positions but may only be elected to fill one (1) position. The person receiving the highest number of votes for Chairperson shall serve for three (3) years. The person receiving the highest number of votes for Vice Chairperson shall

serve for three (3) years. The person receiving the highest number of votes for council member shall serve for three (3) years. The persons receiving the second (2nd), third (3rd) and fourth (4th) highest number of votes for council member shall serve for two (2) years. The persons receiving the fifth (5th), sixth (6th) and seventh (7th) highest number of votes for council member shall serve for one (1) year. In all general elections thereafter, the terms of all positions on the Tribal Council shall be three (3) years. There shall be no primary election for purposes of the first election. All other sections of the Constitution not inconsistent with this section shall be applicable to the first election.

Section 8. Eligible Voters. All tribal members who are eighteen (18) years of age or older on the date of any tribal election shall be eligible to vote in the election.

Section 9. Voter Registration. There shall be a voter registration requirement for all members of the Tribe. All members of the Tribe must complete a voter registration form at any time before voting in any general or special election which is held after the adoption of this constitution. All original voter registration forms shall be kept in a secure location. A copy of all voter registration forms shall be kept in an alternate secure location. Once a completed voter registration form is on file with the Tribe, a voter is entitled to vote in all subsequent general and special elections.

Section 10. Selection of Chairperson and Vice Chairperson. The voters shall select the Chairperson and Vice Chairperson during the general election when those positions become vacant and in accordance with an election ordinance adopted by the Tribal Council.

Section 11. Voting District. Voting districts may be established by the Tribal Council.

Section 12. Secret Ballot. All elections, including special elections, shall be conducted by secret written ballot.

Section 13. Absentee Voting. Absentee voting may be permitted by ordinance adopted by the Tribal Council.

Section 14. Election Results. The candidates receiving the highest number of votes for the available positions shall be declared the winners for those positions. The Election Board shall certify all election results within three (3) days of the date of the election.

Section 15. Tie Votes. In case of a tie between one or more candidates, a run-off election shall be held until the tie is broken.

Section 16. Oath of Office. The oath of office for newly elected Tribal Council members shall be administered within thirty (30) days after the Election Board certifies the election results.

Section 17. Challenges to Election Results. Any member of the Yavapai-Apache Tribe may file a challenge to the election results by filing a suit in Tribal Court within ten (10) days after the Election Board certifies the election results. The Tribal Court shall hear and decide election cases within thirty (30) days after the Election Board certifies the election results, except where the party challenging the results requests additional time which may be granted at the discretion of the Tribal Court, Provided, That only one thirty (30) day extension of time may be granted. If the Tribal Court invalidates the election results, the Court shall order that a new election be held as soon as possible.

Section 18. Vacancies. The Tribal Council shall call a special election to fill a vacancy unless six (6) months or less remain in the term of office for the vacant position, in which case the position shall remain vacant until the next election. All persons elected to fill a vacant position shall fill out the term of the person whom he is replacing.

Section 19. Election Ordinance. The Tribal Council shall have the power to adopt ordinances covering all necessary details of the election procedures for both general and special elections.

#### ARTICLE IX - BILL OF RIGHTS

The Yavapai-Apache Tribe, in exercising its powers of self-government shall not:

- (a) Make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peacefully to assemble and to petition for a redress of grievances;
- (b) Violate the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, nor issue warrants but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;
- (c) Subject any person for the same offense to be twice put in jeopardy;
- (d) Compel any person in any criminal case to be a witness against himself;

- (e) Take any private property for public use without just compensation;
- (f) Deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have the assistance of counsel for his defense;
- (g) Require excessive bail, impose excessive fines, or inflict cruel and unusual punishment;
- (h) Deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law;
- (i) Pass any bill of attainder or ex post facto laws; and
- (j) Deny any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six (6) persons.

#### ARTICLE X - DUTIES OF THE OFFICERS

The duties of the Chairperson, Vice Chairperson, Secretary and Treasurer shall be established by ordinance enacted by the Tribal Council.

#### ARTICLE XI - LAND

Section 1. No Allotments. All lands within the jurisdiction of the Tribe shall remain tribal property and shall not be divided by allotment in any way whatsoever to individuals, groups of individuals, or any other entity.

Section 2. Assignments. Assignment of tribal land for private use may be made by the Tribal Council in conformity with ordinances which may be adopted on this subject, Provided, That assignments shall be used for the purpose assigned and once granted shall not be revoked absent good cause. Title to the assigned lands shall not vest in the assignee.

#### ARTICLE XII - MEETINGS OF THE TRIBE

The Tribal Council may from time to time call general meetings of all the voters of the Tribe to identify and discuss important tribal matters. A minimum of one (1) general meeting shall be held each year.

### ARTICLE XIII - SOVEREIGN IMMUNITY

- (a) The Yavapai-Apache Tribe hereby declares that, in exercising self-determination and its sovereign powers to the fullest extent, the Tribe is immune from suit except to the extent that the Tribal Council expressly waives sovereign immunity, or as provided by this constitution.
- (b) No tribal employee or Tribal Council member acting within the scope of his duties or authority is subject to suit.

### ARTICLE XIV - REFERENDUM AND INITIATIVE

Upon petition of at least twenty-five (25) percent of the eligible voters of the Tribe, or upon request of the majority of the members of the Tribal Council, any enacted or proposed ordinance, resolution or other official action of the Tribal Council shall be submitted by the Tribal Council to popular initiative or referendum and the vote of the majority of the qualified voters in such initiative or referendum shall decide whether the ordinance, resolution or other official action shall thereafter be in effect, Provided, That twenty-five (25) percent or more of the eligible voters shall vote in such initiative or referendum. Official petition forms shall be issued by the Tribal Secretary and shall be circulated and completed within one-hundred-twenty (120) days of the date of issuance. The Secretary shall notify the petitioners in writing of the number of required signatures for a valid petition. The Tribal Council must act within thirty (30) days of receipt of a valid petition and must schedule an election on the proposed petition within ninety (90) days thereafter.

### ARTICLE XV - ORDINANCES AND RESOLUTIONS

Section 1. Ordinances. All final decisions on matters of permanent interest shall be embodied in ordinances. Such enactments shall be available for inspection by members of the Tribe during normal business hours.

Section 2. Resolutions. All final decisions on matters of temporary interest where a formal expression is needed shall be embodied in a resolution, noted in the minutes, and shall be available for inspection by members of the Tribe during normal business hours.

Section 3. Form. All ordinances and resolutions shall be dated and numbered, shall cite the appropriate constitutional authority, and shall include a certificate showing the presence of a quorum and the number of members voting for and against the proposed enactment.

Section 4. Review. The Tribal Council shall submit tribal laws and enactments to the Secretary of the Interior for his review, comment and approval only when required to do so by federal law.

#### **ARTICLE XVI - AMENDMENTS**

This Constitution 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 (30) percent of those entitled to vote shall vote in such election; but no amendment shall become effective until approved by the Secretary of the Interior or until deemed approved by the Secretary of the Interior by operation of law. If the voters adopt the amendment(s), the Secretary of the Interior shall approve such amendment(s) within forty-five (45) days after the election unless the amendment(s) are contrary to applicable law. It shall be the duty of the Secretary of the Interior to call and hold an election on any proposed amendment at the request of the Tribal Council, or upon presentation of a petition signed by thirty (30) percent of the qualified voters of the Tribe.

#### **ARTICLE XVII - SAVINGS CLAUSE**

All enactments of the Tribe adopted before the effective date of this constitution shall continue in effect to the extent that they are consistent with this constitution.

#### **ARTICLE XVIII - SEVERABILITY**

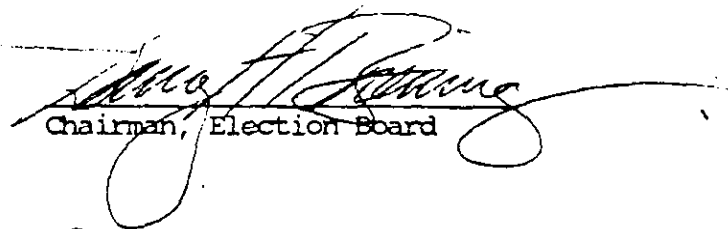
If any provision of this constitution shall in the future be declared invalid by a court of competent jurisdiction, the invalid provision or provisions shall be severed and the remaining provisions shall continue in full force and effect.

#### **ARTICLE XIX - ADOPTION OF CONSTITUTION**

This constitution, when adopted by a majority vote of the registered voters of the Yavapai-Apache Tribe of the Camp Verde Indian Reservation, Arizona, voting at a special election authorized by the Secretary of the Interior in which at least thirty (30) percent of those registered in accordance with Secretarial regulations to vote shall vote, shall be submitted to the Secretary of the Interior for his approval and, if approved by the Secretary of the Interior or by operation of law, shall be effective from the date of such approval.

CERTIFICATE OF RESULTS OF ELECTION

Pursuant to a Secretarial election authorized by Denise Homer, Actg. 1  
on January 28, 1992 the forgoing Constitution of the Yavapai-Apache Nation  
was submitted to the registered voters of the Yavapai-Apache Indian Community  
and on March 7, 1992, was duly adopted/rejected by a vote of 86 for,  
and 8 against, and 1 cast ballots found spoiled or mutilated, in an  
election in which at least thirty percent (30%) of the 157 members  
registered to vote cast their ballot in accordance with Section 16 of the  
Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended.

  
Chairman, Election Board

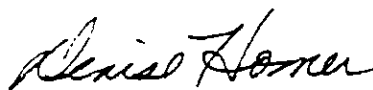
  
Election Board Member

  
Election Board Member

Date: March 7, 1992

CERTIFICATE OF APPROVAL

I, Denise Homer, Director, Office of Tribal Services, by virtue of the authority granted to the Secretary of the Interior by the Act of June 18, 1934 (48 Stat. 984), as amended, and delegated to me by 230 D.M. 2.4, do hereby approve the Constitution of the Yavapai-Apache Nation. It is effective as of this date; Provided, That nothing in this approval shall be construed as authorizing any action under this document that would be contrary to Federal law.



LC:HR Director, Office of Tribal Services

Washington, D.C.

Date: APR 13 1992