



Navajo Nation Constitutional Attempt 1968

1968

CONSTITUTION OF THE
NAVAJO TRIBE OF INDIANS

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We the People, in our earnest desire to foster the social and economic advancement of our people, to insure justice, to safeguard our fundamental, God-given rights, and to continue to secure for ourselves and our posterity the precious blessings of freedom and liberty, do hereby establish this Constitution as the foundation on which our Navajo government shall rest.

ARTICLE I - THE NAVAJO TRIBE

Section 1: The Navajo Tribe shall consist of the following persons:

- (a) All persons as of the date of the adoption of this Constitution whose names appear or are eligible to appear on the official census roll of the Navajo Tribe, now maintained by the Bureau of Indian Affairs of the United States Department of the Interior.
- (b) All persons born subsequent to the date of adoption of this Constitution, having at least one-fourth (1/4) degree of Navajo blood, and having as one parent the parent who, at the time said person's birth was a member of the Navajo Tribe, or eligible to apply for such membership and having the necessary qualifications to entitle him to such membership.

- (c) Any person reinstated to membership in the Navajo Tribe as hereinafter provided in this Constitution.

Section 2: Any person qualifying for membership in the Navajo Tribe under this Constitution who is eligible for enrollment in another Indian tribe, if otherwise entitled to membership in the Navajo Tribe, he shall not receive such membership until he shall have furnished to the President of the Navajo Tribe proper evidence of his release from membership by the tribe of which he was eligible for enrollment. Should he, at the time of application, not be an enrolled member of another tribe, he shall accompany his application with a statement to that effect.

Section 3:

- (a) Any person desiring to relinquish his membership in the Navajo Tribe may do so in writing to the President of the Navajo Tribe, requesting that his name be stricken from the tribal roll. Such request shall apply only to the person making such request. The spouse and children, if any, may continue their membership in the tribe.
- (b) Any person desiring to be reinstated in the Navajo Tribe, shall make a request therefor to the President of the Navajo Tribe, who, if he approves the same, shall submit the request to the Navajo Tribal Council for further consideration. Should the Navajo Tribal Council approve the request by an affirmative vote of the majority of the Tribal Council then present and voting, he shall be reinstated.

Section 4: No person, while enrolled as a member of another Indian tribe, shall be eligible for enrollment in the Navajo Tribe.

Section 5: The Navajo Tribal Council shall have the power to adopt laws, consistent with this Constitution, governing future membership in the Navajo Tribe, and the loss of membership therein.

ARTICLE II - JURISDICTION

Section 1: The jurisdiction of the Navajo Tribe shall extend to the following areas:

- (a) All territory within the exterior boundaries of the Navajo Reservation;
- (b) All trust allotments of Navajo Tribal members outside the boundaries of the said reservation;
- (c) All land outside the Navajo Tribal reservation, which is held in trust by the United States for the Navajo Tribe; and
- (d) Such other trust lands as may be added thereto from time to time by purchase, gift, Act of Congress, or otherwise.

ARTICLE III - BILL OF RIGHTS

Section 1: The Navajo Tribal Council shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Navajo Tribal Government for a redress of grievances.

Section 2: The right of the people to keep and bear arms for peaceful purposes, shall not be infringed.

Section 3: No Governmental use shall be made of any house, without the consent of the owner, except in a manner to be prescribed by resolution.

Section 4: The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath, or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Section 5: No person shall be subject for the same offense to be twice put in jeopardy of liberty, or property; nor shall he be compelled in any criminal case to be a witness against himself; nor shall private property be taken for public use, without just compensation.

Section 6: In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, and shall be informed of the nature and cause of the accusation; shall be confronted with the witnesses against him; and shall have compulsory process for obtaining witnesses in his favor.

Section 7: Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Section 8: The enumeration herein of certain rights, shall not be construed to deny or disparage others retained by the people.

ARTICLE IV - DISQUALIFICATION OF MEMBERS
FOR ELECTIVE OFFICE

Section 1: No person who has been convicted of any felony, including, but not limited to, bribery, receiving a bribe, embezzlement, extortion, fraud, forgery, misbranding, perjury, theft, murder, arson, habitual drunkenness, felonious assault, felonious battery, or rape, shall be eligible for candidacy to any elective office of the Navajo Tribe, unless he shall have been pardoned for each and every one of said offenses by the President of the Navajo Tribe in conformity with applicable laws and procedures prescribed by the Navajo Tribal Council.

ARTICLE V - ORGANIZATION OF THE GOVERNMENT
OF THE NAVAJO TRIBE

Section 1: The powers of the Government of the Navajo Tribe shall be divided into three distinct departments--the Executive Department, the Legislative Department, and the Judicial Department.

Section 2: No person or groups of persons, subject to this Constitution, charged with the exercise of powers properly belonging to one of these departments, may exercise any powers properly belonging to either of the other departments, except as this Constitution may otherwise expressly direct or permit.

ARTICLE VI - THE EXECUTIVE DEPARTMENT

Section 1: The Executive Department of the Navajo Tribal government shall consist of a President, a Vice President, a Secretary, and a Treasurer.

Section 2: The offices of President and Vice President shall be elective. The offices of Secretary and of Treasurer shall be filled by appointment by the President, with the concurrence of the Navajo Tribal Council. Persons appointed to fill these offices shall serve at the pleasure of the President.

Section 3: The terms of office of the President and of the Vice President shall be four (4) years, said terms commencing on _____.

Section 4: Persons in order to be eligible to serve as President or as Vice President of the Navajo Tribe must have attained the age of thirty-five (35) years, must be enrolled members of the Navajo Tribe, must not be subject to disqualification as heretofore provided in this Constitution, and must have resided on lands subject to this Constitution at least one year prior to the time they filed as candidates for the offices sought.

Section 5: In the event of the death, resignation, or inability to serve due to severe mental or physical illness of the President; the Vice President shall assume the duties of President until such time as the President shall have recovered from his illness or incapacity, or until a new President shall have been elected at the next regular election.

Section 6: In the event of the death, resignation, or inability to serve due to severe mental or physical illness of the Vice President, the President shall, with the concurrence of the Navajo Tribal Council, appoint a qualified member of the Navajo Tribe to serve as Vice President until the Vice President

shall have recovered from his illness or incapacity or until a Vice President shall have been elected at the next regular election.

Section 7: In the event vacancies shall occur in the offices of both the President and the Vice President, a special election shall be called by the Navajo Tribal Council for the election of a new President and a new Vice President. These new officers shall serve until the President or the Vice President, first elected, shall have recovered from their illness or incapacity, or until a new President and Vice President shall have been elected at the next regular election.

Section 8: The President of the Navajo Tribe, and, in his absence, the Vice President shall be endowed with and exercise the following powers, as the Chief Executive Officer of the Navajo Tribe:

- (a) He shall serve as the Chairman of the Navajo Tribal Council, and as such may preside over Council sessions, and conduct deliberations by Council members in accordance with parliamentary law as set forth in Roberts Rules of Order and such other rules as the Council may choose to adopt. If he so elects, he may appoint the Vice President to serve in this capacity at any such Council session or any part thereof, and the Vice President while serving in the same powers as may be exercised by the President at such times.

- (b) He shall appoint all nonelective officials and employees of the Executive Department of the Tribal government, shall direct them in their work, and shall exercise control over them with respect to such work, subject only to applicable restrictions embodied in this Constitution, written contracts of employment, or in enactments of the Navajo Tribal Council establishing personnel policies or governing personnel management. All such appointive officers, the salary of whom shall exceed \$12,000.00 per annum, must be approved by the Navajo Tribal Council.
- (c) He may, subject to the approval of the Navajo Tribal Council, establish such boards, committees, or subcommittees as the business of the Tribe may require, and shall serve as an ex officio member of all such boards, committees, or subcommittees.
- (d) He shall serve as contracting officer for the Navajo Tribe.
- (e) He shall have veto power over enactments of the Navajo Tribal Council, as is provided elsewhere in this Constitution.
- (f) He shall direct and have supervision and control over the Navajo Tribal Police and the Navajo Rangers, to assure the enforcement of the laws of the Tribe.
- (g) He shall have no other private employment during his term as President.

- (h) He shall reside and maintain offices at the headquarters of the Tribe.
- (i) He shall sign all resolutions and laws passed by the Navajo Tribal Council or else veto the same, and no law shall become effective until after it is passed by said Council and signed by the President. Should any such resolution or law be not signed by the President and not vetoed by him two weeks after being delivered to him or to his office, it shall be in effect without his signature. The veto power provided for herein may be overruled by the Tribal Council as is provided by Article XI, Section 2.

Section 9: The Secretary shall call the roll of the Navajo Tribal Council, keep the minutes of all regular and special meetings of the Council, and, following each general election, certify to appropriate authorities the duly elected President, Vice President, and Councilmen.

Section 10:

- (a) The Treasurer shall accept, receipt for, keep, and safeguard all funds under the exclusive control of the Tribe. He shall keep an accurate record of such funds and shall report thereon at such times as requested by the Tribal Council. He shall not pay or disburse funds except when properly authorized to do so by the Tribal Council.
- (b) The books and records of the Treasurer shall be audited at least once a year by a competent

auditor employed by the Tribal Council, and at such other times as the Tribal Council may direct.

- (c) The Treasurer shall be required to give a surety bond.
- (d) All checks shall be signed and all vouchers shall be approved for payment by two officers of the Tribe, as follows: The President or the Vice President, together with the Treasurer or, in his absence, the Secretary.

ARTICLE VII - THE LEGISLATIVE DEPARTMENT

Section 1: The Navajo Tribal Council shall be vested with all legislative powers of the Navajo Tribe, and shall exercise such powers subject only to applicable laws of the United States, regulations of the Secretary of the Interior pursuant thereto, and this Constitution. It shall be empowered:

- (a) To protect and preserve the property, wildlife, antiquities, and natural resources of the Tribe, and to regulate the conduct of trade and the use and disposition of tribal property upon the reservation.
- (b) To lease, permit, assign, manage, or provide for the management of tribal lands, interests in such lands or other tribal assets, to purchase or otherwise acquire lands or interests in lands within or without the reservation; and to regulate the use and disposition of tribal property of all kinds.

- (c) To adopt and approve plans to govern the conduct of any business or industry that may further the economic well-being of the members of the Tribe, and to undertake any activity of any nature whatsoever, not inconsistent with Federal law and regulations, or with this Constitution, designed for the economic improvement of the Navajo Tribe.
- (d) To use tribal funds as loans or grants, and to transfer tribal property and other assets, to tribal corporations, associations, commissions, or boards for such use as the Tribal Council may determine, in conformity with this Constitution, and consistent with applicable Federal laws and regulations.
- (e) To authorize the President to negotiate contracts, leases, and agreements of every description not inconsistent with Federal law or with this Constitution, and subject to review or approval by the Secretary of the Interior where such review or approval is required by statute or regulation; provided that all such contracts, leases, and agreements so negotiated shall be subject to approval by the Tribal Council.
- (f) To acquire by condemnation any individual interest in reservation lands, for tribal purposes, provided that full and fair compensation shall be made to such individual, as determined by appraisal.

- (g) To regulate its own procedures; to appoint subordinate boards, commissions, committees; and to charter tribal corporations, and other subordinate organizations for economic and other purposes.
- (h) To borrow money from the Federal government or other lenders for tribal use.
- (i) To administer any funds or property within the exclusive control of the Tribe, and to make expenditures from available funds for public purposes of the Tribe, including all salaries and remuneration of elective officials, officers, and tribal employees.
- (j) To administer charity.
- (k) To make loans to tribal members in accordance with applicable laws and regulations.
- (l) To enact ordinances, establishing Tribal courts and Tribal law enforcement agencies on the reservation; to enact civil, criminal, and probate codes for the administration of justice on the reservation and the regulation of domestic affairs.
- (m) To administer oaths; to require, upon proper notice being given, any member of the Tribe to appear and give testimony before the Tribal Council; and to provide by ordinance for punishment of such members who fail to comply with such requirements or for giving false testimony. The appearance of

the President, Vice President, Secretary, or Treasurer shall be voluntary only and punitive measures herein provided shall not apply to them.

- (n) No authority or power contained in this Constitution may be delegated by the Navajo Tribal Council to tribal officials, committees, or associations to carry out any functions or do anything for which primary responsibility is vested in the Tribal Council, except by ordinance or resolution duly enacted by the Council.

Section 2: Each electoral district in the area set forth in Article II shall elect such number of councilmen as the Navajo Tribal Council may determine appropriate, giving due consideration to the area and population covered thereby. The boundary lines of such electoral districts, the alteration thereof, or the creation of new electoral districts shall be determined by the Tribal Council. Any changes in the boundary lines or the creation of new districts shall take effect only at the general election next succeeding the council meeting at which such changes were approved by Council action.

Section 3: The Navajo Tribal Council shall consist of Councilmen elected each fourth year at a general election. Each electoral district shall be entitled to elect one councilman and such other councilmen as the Tribal Council may deem appropriate.

Section 4: A minimum of two regular council sessions shall be held each year at such dates as the Navajo Tribal

Council may determine. Any special sessions of the Navajo Tribal Council may be called by the President or by petition to the President of at least twenty-five percent (25%) of the members of the Tribal Council. Forty-eight hours written notice shall be given each councilman of the convening of a special meeting of the Navajo Tribal Council.

Section 5: Each councilman shall be entitled to one vote on any ordinance or resolution brought before the Navajo Tribal Council. The President of the Navajo Tribe or, in his absence, the Vice President of the Navajo Tribe, shall be entitled to a vote on any ordinance or resolution only in case of a tie vote.

Section 6: All meetings of the Navajo Tribal Council shall be held at the headquarters of the Navajo Tribe at Window Rock, Arizona.

Section 7: Any member of the Navajo Tribal Council who during the term for which he is elected, is convicted of any felony, shall automatically forfeit his office. Any member of the Tribal Council found guilty of a misdemeanor involving moral turpitude, gross neglect of duty, malfeasance in office, or misconduct reflecting adversely on the dignity or integrity of the Tribal government, may be removed from office by a majority vote of the Tribal Council. Before any vote for such removal from office is taken, such member shall be given a written statement of the charges against him at least five (5) days before the meeting of the Tribal Council before whom he is to appear, and he shall be given an opportunity to answer any and all charges at a designated Council meeting. The decision

of the Tribal Council shall be final, and he shall not be eligible for re-election to such office during the term in which he is removed.

Section 8: Upon receipt of a petition signed by at least twenty-five per cent (25%) of the eligible voters of any election district demanding recall of any Council member of such district, filed with the Secretary of the Navajo Tribe at least four (4) months before the expiration of such Council member's term of office, it shall be the duty of the Tribal Council to call a special election upon the question of recall. Such election shall be held not less than twenty-five (25) nor more than forty (40) days from the filing of the petition. No Council member shall be recalled unless a majority of the members voting, vote in favor of the recall and unless at least thirty percent (30%) of the eligible voters vote in the election.

Section 9: If a member of the Tribal Council fails to attend two successive sessions of the Tribal Council, he shall automatically cease to be a member of the Tribal Council. In such event, the Tribal Council shall declare the position vacant, and the President shall thereupon call a special election to fill the vacancy created, unless such member

(a) is excused by the Tribal Council, or

(b) is absent by reason of illness, or due to

reasons beyond his control, which are

satisfactory to the Tribal Council.

Section 10: In the event of a vacancy, for any cause, in the membership of the Tribal Council, the unexpired term

corresponding to the vacancy shall be filled by a qualified person, elected at a special election called by the President.

ARTICLE VIII - THE JUDICIARY DEPARTMENT

Section 1: The judicial powers of the Navajo Tribe shall be vested in one appellate court and such lower Navajo Tribal Courts as the Navajo Tribal Council may establish. Such courts shall have power to adopt rules of procedure for the conduct of their business.

Section 2: The judicial power shall extend to all cases, in law and equity, arising under this Constitution and the laws of the Navajo Tribe, not inconsistent with Federal law.

Section 3: The judges of these several courts shall be appointed by the President with the concurrence of the Navajo Tribal Council, and shall hold their offices during good behavior or until their seventieth birthday.

Section 4: The salary of these judges shall be fixed by the Navajo Tribal Council.

Section 5: No person shall be appointed to the office of Tribal Judge unless he is an enrolled member of the Navajo Tribe, and not less than thirty-five or more than seventy years of age. Moreover, no person shall be so appointed who has ever been convicted of a felony, or within one year the last year, of a misdemeanor.

ARTICLE IX - INHERENT POWERS OF THE NAVAJO TRIBE

Section 1: No provision of this Constitution shall be construed as a limitation on the inherent residual sovereign powers of the Navajo Tribe. Any such powers, not delegated to

the representative Tribal Government by this Constitution are retained for direct exercise by the Navajo people through referendum, as provided for herein, or for exercise by the Tribal Government following any amendment of this Constitution.

ARTICLE X - SAVING CLAUSE

Section 1: All ordinances and resolutions heretofore enacted by the Navajo Tribal Council shall remain in full force and effect insofar as they are not inconsistent with this Constitution.

Section 2: The incumbent Tribal officers and Council members shall remain in office and shall be entitled to exercise all powers granted them until the first regular election is held subsequent to the adoption of this Constitution.

ARTICLE XI - QUORUM, VOTE

Section 1: A majority of the elected Council members shall constitute a quorum for council business. For purpose of a quorum the President, or in his absence the Vice President shall count as one member present. No enactment of the Tribal Council shall have any validity or effect in the absence of a quorum of the membership thereof.

Section 2: No resolution or ordinance of the Navajo Tribal Council shall have any validity unless it is passed by the Tribal Council at a legally called session in which a quorum of the membership was present, and until approved by the President or passed over his veto by two-thirds vote of the members present and voting.

ARTICLE XII - ORDINANCES AND RESOLUTIONS

Section 1: All final decisions of the Navajo Tribal Council, on matters of permanent interest to members of the Tribe and necessary to the orderly administration of Tribal affairs, shall be embodied in ordinances, the format of which shall be established by the Navajo Tribal Council. Such enactments shall be available for public inspection by members of the Tribe at all reasonable hours.

Section 2: All final decisions of the Navajo Tribal Council on matters of temporary interest, or matters relating to particular individuals, officials, or circumstances, shall be embodied in resolutions. Such actions of the Council shall be subject to public inspection by members of the Tribe at all reasonable hours.

ARTICLE XIII - REFERENDUM

Section 1: Upon receipt of a petition signed by at least thirty percent (30%) of the qualified voters of the Tribe and filed with the Secretary demanding a referendum upon any proposed or enacted ordinance, resolution, or other action by the Navajo Tribal Council, such ordinance, etc., shall either be repealed by the Navajo Tribal Council or else submitted to the electorate for decision by the Tribe at a general election to be held within thirty (30) days after receipt of the petition. The referendum shall be conclusive only if at least thirty percent (30%) of the qualified voters cast their ballots therein.

Section 2: No referendum conducted pursuant to the provisions of this Article shall serve to abrogate, modify or

amend any properly approved contract or agreement with third persons.

ARTICLE XIV - CONSTITUTIONAL AMENDMENT

Section 1: This Constitution may be amended at an election called by the Navajo Tribal Council:

- (a) Whenever, by majority vote of the members of the Navajo Tribal Council, the Council shall authorize the submission of the proposed amendment to the electorate of the Tribe, or
- (b) Whenever a minimum of thirty percent (30%) of the qualified voters of the Tribe, by signed petition, shall request such amendment.

Section 2: If, at such election, the amendment is adopted by majority vote of the qualified electors of the Tribe voting thereon, and if the number of ballots cast represents not less than thirty percent (30%) of the qualified voters, such amendment shall be submitted to the Secretary of the Interior, and, if approved by him, it shall thereupon take effect.

ARTICLE XV - NOMINATIONS AND ELECTIONS

Section 1: An election board, appointed by the President of the Navajo Tribe, shall supervise and administer all elections in accordance with Tribal ordinances and in conformity with this Constitution; provided that no member of the election board shall be at the same time a member of the Navajo Tribal Council or a candidate for Tribal office, and provided further that persons so appointed by the President shall be confirmed by the Tribal Council.

Section 2: Any member of the Navajo Tribe shall have the right to vote in any tribal election provided such member:

- (a) Is at least twenty-one (21) years of age at the time of such election, and an enrolled member of the Navajo Tribe, and
- (b) Has resided on the lands subject to this Constitution at least six (6) months prior to the date of such election.

Section 3: All elective officers and council members shall be chosen by secret ballot, the form of which shall be established by ordinance enacted by the Navajo Tribal Council.

Section 4: The Tribal Council shall make provision for absentee voting.

Section 5: No member of the Navajo Tribe shall be deprived of his right to vote, if otherwise qualified, because of temporary absence from the reservation as defined by appropriate ordinance by the Navajo Tribal Council.