

# Southern Ute Indian Tribe



Location: Colorado

Population: 12,349 enrolled members, of which 8,611 live on the reservation

Date of Constitution: 1975

## PREAMBLE

We, the members of the Southern Ute Indian Tribe of the Southern Ute Indian Reservation in Colorado, in order to exercise our inherent rights of self-government as confirmed by the constitution and bylaws approved November 4, 1936 to administer our tribal affairs, to preserve and increase our tribal resources, do ordain and establish this constitution.

## ARTICLE I. JURISDICTION

The jurisdiction of the Southern Ute Indian Tribe through its general council, its tribal council and courts, shall extend to all the territory within the exterior boundaries of the reservation, and to such other lands as may be added thereto by purchase, gift, Act of Congress or otherwise.

## ARTICLE II. MEMBERSHIP

SECTION 1. The membership of the Southern Ute Indian Tribe shall consist of the following:

- (a) All persons duly enrolled on the 1970 tribal census roll dated August 31, 1971, approved by the Albuquerque Area Director on February 1, 1972.
- (b) All children of enrolled members born subsequent to July 14, 1965, and prior to the effective date of this revision, such children possess at least one-fourth (1/4) degree of Southern Ute Indian blood; and have been enrolled as a member of any other tribe.
- (c) All children of enrolled members born subsequent to the effective date of this revision, if such children shall be one-fourth (1/4) or more degree of Southern Ute Indian blood and PROVIDED that such person shall not be included on the membership roll of any other Indian tribe and is approved for adoption by the tribal council.

SECTION 2. The tribal council shall have the power to enact ordinances consistent with this constitution, to govern future membership, loss of membership and the adoption of persons into the Southern Ute Tribe. Such ordinances shall be subject to approval by the Secretary of the Interior or his authorized representative.

SECTION 3. The tribal council shall have the power to prescribe rules governing the compilation, maintenance and correction of a tribal membership roll. Such rules, insofar as the correction of blood degree is concerned, shall be subject to approval by the Secretary of Interior or his authorized representative.

SECTION 4. The tribal council shall have the sole authority and original jurisdiction to determine eligibility for enrollment. No decree of any non-tribal court purporting to determine membership in the tribe, paternity, or degree of Indian blood, shall be recognized for membership purposes.

#### ARTICLE III. GOVERNING BODY

SECTION 1. Name. The governing body of the Southern Ute Indian Tribe of the Southern Ute Indian Reservation shall be known as the Southern Ute Indian Tribal Council.

SECTION 2. Composition of the Council. The council shall be composed of seven (7) members (chairman and six (6) councilmen) all of whom shall be elected on an at-large basis for three (3) year staggered terms or until their successors are duly elected and installed. The chairman shall be elected from among candidates who specifically file for that office. Following his installation, the chairman shall appoint from within the council membership a vice-chairman to serve in that capacity at the pleasure of the chairman provided such appointment shall not extend the vice-chairman's normal three (3) year term on the council.

SECTION 3. The tribal council and tribal officials incumbent on the effective date of this constitution shall remain in office and shall be entitled to exercise all powers granted by this constitution to the tribal council and tribal officials until such time as their successors are duly elected and installed pursuant to the provisions of this governing document.

#### ARTICLE IV. NOMINATIONS AND ELECTIONS

SECTION 1. The First Election. The first election under this constitution shall be held on the first Friday in November (November 7, 1975) and shall be supervised and conducted in accordance with an election ordinance enacted by the council then in office pursuant to Section 7 of this article. The position of tribal council chairman and the two (2) vacancies on the council which would occur in November, 1975 under the original constitution, shall be filled for three (3) year terms at the November 7, 1975 election. Those incumbents in the two (2) above mentioned council positions shall continue to serve until December 2, 1975 unless earlier removed from office, or until their successors are duly elected and installed. Successful candidates for the three (3) vacant council positions (chairman and two (2) council members) and the person appointed by the chairman to serve as vice-chairman, shall be installed in office on the first Tuesday of December (December 2, 1975). Thereafter there shall be annual elections on the first Friday in November to fill for three (3) year terms, the two (2) vacancies occurring each year so as to continue the system of staggered terms of office. Every third year there shall also be elected a tribal council chairman for a three (3)

year term. No person shall hold the office of Tribal Council Chairman consecutively for more than three terms.

SECTION 2. Terms of Office. The terms of office of the tribal council chairman and the members of the tribal council shall be three (3) years, PROVIDED, that upon adoption and approval of this constitution the unexpired terms of the council members elected under the previous constitution shall continue until their terms expire at the end of three (3) years from the date of their installation or until their successors are duly elected and installed.

SECTION 3. Assumption of Office. Newly-elected members of the tribal council shall be installed in office on the first Tuesday of December after their election. Persons who are elected or appointed to fill any unexpired term on the council shall take office immediately following certification of their election or appointment.

SECTION 4. Voter Qualifications. Any enrolled member of the Southern Ute Indian Tribe, male or female, eighteen (18) years of age or over, shall be entitled to vote at any tribal election PROVIDED such person is duly registered.

SECTION 5. Qualification of Candidates. Candidates for membership on the tribal council shall be at least twenty-five (25) years of age at the time of election or appointment, and shall have physically resided within the present exterior boundaries of the Southern Ute Indian Reservation for at least ninety (90) days immediately preceding their appointment or the election at which they are candidates for tribal office. No person who has been convicted of a felony shall qualify as a candidate or hold membership on the tribal council.

SECTION 6. Election Board. An election board, appointed by the tribal council, shall maintain a register of qualified voters, rule on the eligibility of the candidates for tribal office, settle all election disputes and supervise and administer all tribal elections in accordance with established 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 tribal council or a candidate for tribal office. Persons appointed to the election board may be removed by the tribal council chairman. With the concurrence of the tribal council. The election board shall choose its own chairman, vice-chairman and secretary from within its membership.

SECTION 7. Election Ordinance. Rules and procedures governing the elections under this constitution shall be prescribed by ordinance of the tribal council. Such ordinance shall include provisions for notice of election, secret ballots, absentee voting, registration of voters, special elections and a procedure for settling election disputes. Further, it shall contain provisions to govern the filling of unexpired terms of office pursuant to Section 5 (b) of Article V and the conduct of referendum elections as set forth in Section 3 of Article VI.

#### ARTICLE V. VACANCIES, REMOVAL AND RECALL

SECTION 1. Removal. Any member of the tribal council or other elected official of the Southern Ute Indian Tribe who, during his term of office, is convicted of a felony in any court, shall thereupon forfeit his term of office. Any member of the tribal council or elected official of the tribe may be removed from office by the affirmative vote of not less than four (4)

members of the tribal council for gross neglect of duty, misfeasance in office or for misconduct reflecting on the dignity and integrity of the Southern Ute Indian Tribe, PROVIDED, that first, the accused person shall be given a written statement of the charges made against him at least ten (10) days before the meeting of the tribal council at which he is to appear, and he shall be given an opportunity to answer such charges. The decision of the tribal council shall be final.

SECTION 2. Recall. Any member of the tribal council or other elected official of the Southern Ute Indian Tribe shall be subject to recall from office at a special election to be called and held at the direction of the tribal council within thirty (30) days following receipt of a petition signed by at least thirty percent (30%) of the registered voters of the Southern Ute Indian Tribe, PROVIDED, that a majority of the registered voters of the Southern Ute Indian Tribe shall vote in such election. Once a recall attempt has been concluded for any given member, it shall not be considered again until twelve (12) months have passed. No recall shall be initiated until the official has completed at least six (6) months of his term.

SECTION 3. Procedures. Procedures and regulations governing the conduct of recall elections and removal proceedings shall be established by ordinance of the tribal council.

SECTION 4. Registration. The chairman of the Southern Ute Indian Tribe or any member of the tribal council may, at any time, resign from the office to which he was elected by submitting a written resignation to the tribal council.

SECTION 5. Filling Vacancies. Any vacancy in the membership of the tribal council, resulting from any cause, shall be filled.

- (a) By a tribal member who meets the qualifications for that office, appointed by the chairman of the Southern Ute Indian Tribe and confirmed by a vote of not less than four (4) council members if the term of the vacant office is due to expire within six (6) months following the date upon which it becomes vacant; or
- (b) At a special election to be called and held at the direction of the tribal council within sixty (60) days following the date upon which it becomes vacant if the term of the vacant office has longer than six (6) months to run. Procedures and regulations to govern such special election shall be embodied in the election ordinance.

## ARTICLE VI. REFERENDUM

SECTION 1. Upon the receipt of a petition signed by at least twenty percent (20%) of the registered voters of the Southern Ute Indian Tribe, or upon the adoption of a resolution of the tribal council supported by no less than four (4) members thereof, the tribal council shall direct the election board to call and hold a special election at which the registered voters of the Southern Ute Indian Tribe may vote upon any enacted or proposed ordinance or resolution of the tribal council. Such election shall be held within thirty (30) days following receipt of said petition or adoption of the foregoing resolution by the tribal council. The decision of the tribal electorate shall be final, PROVIDED, that not less than fifty percent (50%) of the registered voters of the Southern Ute Indian Tribe Vote in such referendum.

SECTION 2. Limits of Referendum. No referendum shall serve to abrogate, modify or amend any properly approved contract or agreement to which the tribal council is a party. Once a referendum has been voted upon and fails, that issue shall not be considered again until twelve (12) months have passed.

SECTION 3. Procedures. Special elections for referendum purposes shall be held in conformity with procedures established in the election ordinance of the Southern Ute Indian Tribe.

## ARTICLE VII. POWERS OF THE COUNCIL

SECTION 1. The inherent powers of the Southern Ute Indian Tribe, including those set forth in Section 16 of the Act of June 18, 1934 (48 Stat. 984), as amended, shall be exercised by the Southern Ute Indian Tribal Council, subject only to limitations imposed by the Constitution and Statutes of the United States, by the regulations of the Department of the Interior and by this constitution. The tribal council shall be empowered to:

- (a) Regulate its own procedures by appropriate ordinance. In addition, the council may appoint subordinate boards, commissions, committees, tribal officials and employees not otherwise provided for in this constitution, and may prescribe their salaries, tenure and duties.
- (b) Authorize and regulate tribal associations, corporations and subordinate organizations for economic and other purposes, with the approval of the Secretary of the Interior or his authorized representative whenever required by law, and may transfer tribal assets thereto for management and control;
- (c) Any encumbrance, sale, lease, permit, assignment, or management of any portion of the reservation, or the grant of any rights to use of lands or other assets, or the grant or relinquishment of any water or mineral rights or other natural or fiscal assets of the Southern Ute Indian Tribe, are hereby reserved to the tribal council.
- (d) Advise the Secretary of the Interior and heads of other Federal Agencies with regard to all appropriation estimates or Federal projects for the benefit of the Southern Ute Indians of the Southern Ute Indian Reservation.
- (e) Subject to approval by the Secretary or the Interior, or his authorized representative, the tribal council may enact ordinances and codes to protect the peace, safety, property, health and general welfare of the members of the Southern Ute Indian Tribe and to govern the administration of justice through the tribal courts, prescribe the powers, rules and procedures of the tribal courts in the adjudication or cases involving criminal offenses, domestic relations, civil actions and the inheritance and probate of trust, real and personal property of tribal members within the reservation.
- (f) Provide by ordinances for the appointment of guardians for minors and mental incompetents.
- (g) Provide by ordinance, subject to the approval of the Secretary of the Interior, or his authorized representative, for the removal or exclusion from the reservation of any nonmembers whose presence may be found by the tribal council to be injurious to members of the tribe.
- (h) The tribal council shall manage all funds within the control of the tribe, and may appropriate available tribal money for public, business, governmental or investment

purposes with approval of the Secretary of the Interior, or his authorized representative, whenever required by Federal law.

1. All appropriations of tribal funds shall be expended in conformity with annual budgets subject to approval by the Secretary of the Interior, or his duly authorized representative;
  2. Provisions shall be made for adequate accounting of all tribal financial transactions, including a comprehensive annual audit. An annual summary audit report showing income and expenses for the fiscal year ended, reflecting the financial condition of the tribe, shall be available to tribal members upon request. All tribal officials and employees who are directly responsible for the receipt, disbursement and custody of tribal funds shall be adequately bonded. The cost of such bond shall be paid from tribal funds.
- (i) The tribal council may authorize the deposit of any tribal funds under its control, to the credit of the Southern Ute Indian Tribe, without limitations on the amount carried in any account, in any bank whose deposits are insured by any agency of the Federal Government.
  - (j) The tribal council shall have the power to borrow money for business and economic development purposes from the Federal Government or other lending agencies.
  - (k) The tribal council may levy and collect taxes and fees on tribal members, and may enact ordinances, subject to approval by the Secretary of the Interior, or his authorized representative, to impose taxes and fees on nonmembers of the tribe doing business on the reservation.
  - (l) The tribal council may administer charity.
  - (m) The tribal council may adopt ordinances to authorize the loan of tribal funds to tribal members or tribal organizations.
  - (n) To protect and preserve the property, wildlife and natural resources of the tribe, and to regulate the conduct of trade and the use and disposition of tribal property upon the reservation.
  - (o) To employ legal counsel for the protection and advancement of the Southern Ute Indian Tribe of the Southern Ute Indian Reservation, the choice of counsel and the fixing of fees to be subject to the approval of the Secretary of the Interior, or his authorized representative, so long as such approval is required by Federal law.
  - (p) To enact ordinances, covering the activities of voluntary associations consisting of members of the tribe organized for the purposes of cooperation or for other purposes, and to enforce the observance of such ordinance.
  - (q) To establish housing and such other authorities to conduct the business of the tribe.

SECTION 2. Acting Chairman. In the absence of the chairman and vice-chairman, the tribal council shall by proper resolution appoint from within its membership an acting chairman, who will be given all authority of the regular chairman.

SECTION 3. Further Powers. The tribal council may exercise such further powers as may be delegated to or conferred upon the Southern Ute Indian Tribe by the Congress of the United States, the Secretary of the Interior or other competent authority.

SECTION 4. Reserve Powers and Rights. Any rights and powers heretofore vested in the Southern Ute Indian Tribe of the Southern Ute Indian Reservation but not expressly referred

to in this constitution shall not be abridged by this article, but may be exercised by the members of the Southern Ute Indian Tribe through the adoption of appropriate amendments to this constitution.

SECTION 5. Approval of Council Enactments. Every resolution or ordinance passed by the tribal council shall, before it becomes effective, be presented to the chairman for approval within five (5) days following the date of its passage. If he approves, he shall sign it within ten (10) days following its receipt by him and take such further action as may be necessary. If he does not sign an enactment of the tribal council, it shall not become effective and he shall, at the next regular meeting of the tribal council following its submittal to him for signature, return it to the council with a statement of his objections. It shall, thereafter, not become effective unless it is again approved by five (5) of the six (6) tribal council members.

#### ARTICLE VIII. LAND

The reservation land now un allotted shall remain tribal property and shall not be allotted to individuals in severalty, but assignment of land for private use may be made by the tribal council in conformity with ordinances which may be adopted on this subject, PROVIDED, the vested rights of members of the tribe are not violated.

#### ARTICLE IX. MEETING OF THE TRIBAL COUNCIL

SECTION 1. First Meeting. At the first meeting following installation of newly-elected council members, the carry-over members shall see that new members have a correct and clear understanding of the constitution, the management of tribal and reservation affairs and the rules governing the conduct of the council.

SECTION 2. Regular Meeting. The regular meetings of the council shall be held on a date decided on at a previous meeting of the council, but meetings shall be held every two (2) weeks.

SECTION 3. Special Meetings. The chairman shall call a special meeting of the council whenever necessary or at the request of four (4) or more councilmen. Notice of such special meeting shall be given to every member of the tribal council as promptly as possible.

SECTION 4. Agenda and Quorum. Matters of business before the tribal council shall be decided by majority vote of a quorum present. Any four (4) of the seven (7) council members shall constitute a quorum. In the absence of the chairman and the vice-chairman, the remaining members of the tribal council may appoint an acting chairman as provided in Article VII, Section 2.

#### ARTICLE X. DUTIES OF OFFICERS

SECTION 1. The chairman shall preside over meetings of the Southern Ute Indian Tribal Council and shall perform all duties of a chairman and exercise any authority given him by the tribal council. He shall vote only in case of a tie.

- (a) The chairman shall appoint all non-elective officials and employees of the executive department of the tribal government and shall direct them in their work, subject only to applicable restrictions embodied in this constitution or in enactments of the tribal council establishing personnel policies or governing personnel management.
- (b) The chairman, subject to the approval of the tribal council, may establish such boards, committees or subcommittees as the business of the tribal council may require and may serve as an ex-officio member of all such committees and boards.
- (c) The chairman shall serve as contracting officer for the Southern Ute Indian Tribe executing all contracts and agreements to which the Southern Ute Indian Tribe is a party following approval by the tribal council.
- (d) The chairman shall have power to veto all enactments of the council as provided in Section 5 of Article VII of the constitution.
- (e) The chairman shall direct the preparation of the annual budget of the tribe and its presentation to the tribal council.
- (f) The chairman may represent the tribe in negotiations with non-tribal organizations, agencies and branches of government.
- (g) The chairman shall direct the tribal police to assure the enforcement of ordinances of the tribal council.

SECTION 2. Vice-Chairman. In the absence of the chairman, the vice-chairman shall preside and shall have all powers, privileges, duties and responsibilities of the chairman.

- (a) The vice-chairman shall function as chairman of the tribal council in the absence or at the direction of the chairman.
- (b) The vice-chairman shall perform such other duties as directed by the chairman.

SECTION 3. Treasurer. The treasurer and assistant treasurer of the Southern Ute Indian Tribe shall be appointed by the tribal council. The treasurer and assistant treasurer may be removed by the chairman with the consent of the majority of the total membership of the tribal council.

- (a) The treasurer shall accept, receipt for, keep and safeguard all funds under the exclusive control of the tribe by depositing them in a bank insured by an agency of the Federal Government, or in an individual Indian Money account as directed by the Southern Ute Indian Tribal Council, and shall keep an accurate record of such funds. The treasurer shall make or authorize disbursement from funds under his control only as authorized in the approved annual budget of the tribe or by special action of the tribal council. He shall report on all receipts and expenditures and upon the amount and nature of all funds in his custody to the tribal council at regular meetings and at such other times as requested by the tribal council.
- (b) All checks shall be signed by the treasurer or assistant treasurer. Vouchers shall be approved for payment in accordance with a resolution to be adopted by the tribal council.
- (c) The treasurer and assistant treasurer shall be bonded as provided in Section 1 (h) 2 of Article VII of the constitution.

ARTICLE XI. RESTRICTION ON VOTING OF COUNCILMEN



In cases where a conflict of interest exists for a given council member, on any question before the council, that person shall not vote on such matters without the consent of all the remaining council members.

## ARTICLE XII. CONSTITUTIONAL AMENDMENTS

SECTION 1. This constitution may be amended at an election authorized by the Secretary of the Interior.

- (a) Whenever, by favorable vote of at least four (4) members of the tribal council, the governing body of the tribe shall authorize the submission of a proposed amendment to the electorate of the tribe, or
- (b) Whenever a minimum of twenty percent (20%) of the registered 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 registered voters of the tribe voting therein, and if the number of ballots cast represents not less than thirty percent (30%) of the registered voters, such amendment shall be submitted to the Secretary of the Interior and, if approved by him, it shall thereupon take effect.

## ARTICLE XIII. SAVING CLAUSE

All ordinances and resolutions heretofore enacted by the tribal council of the Southern Ute Indian Tribe shall remain in full force and effect to the extent that they are consistent with the constitution.

## ARTICLE XIV. GENDER

Whenever necessary, words used in this constitution in the masculine gender shall whenever appropriate be construed to read in the feminine gender.

## ARTICLE XV. ADOPTION OF CONSTITUTION

This constitution when adopted by a majority vote of the qualified voters of the Southern Ute Indian Tribe of the Southern Ute Indian Reservation, voting at a special election authorized by the Secretary of the Interior, in which at least thirty percent (30%) 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.