

# Confederated Salish and Kootenai Tribes



Location: Montana

Population: 7,000

Date of Constitution: 1935

## PREAMBLE

We, the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana, in order to establish a more responsible organization, promote our general welfare, conserve and develop our lands and resources, and secure to ourselves and our posterity the power to exercise certain rights of self-government not inconsistent with Federal, State, and local laws, do ordain and establish this Constitution for the Confederated Tribes of the Flathead Reservation.

## ARTICLE I: TERRITORY

The jurisdiction of the Confederated Salish and Kootenai Tribes of Indians shall extend to the territory within the original confines of the Flathead Reservation as defined in the Treaty of July 16, 1855, and to such other lands without such boundaries, as may hereafter be added thereto under any law of the United States, except as otherwise provided by law.

## ARTICLE II: MEMBERSHIP

SECTION 1. The membership of the Confederated Tribes of the Flathead Reservation shall consist as follows:

- (a) All persons of Indian blood whose names appear on the official census rolls of the Confederated Tribes as of January 1, 1935.
- (b) All children born to any member of the Confederated Salish and Kootenai Tribes of the Flathead Reservation who is a resident of the reservation at the time of the birth of said children.

SECTION 2. The Council shall have the power to propose ordinances, subject to review by the Secretary of the Interior, governing future membership and the adoption of members by the Confederated Tribes.

SECTION 3. No property rights shall be acquired or lost through membership in this organization, except as provided herein.

### ARTICLE III: THE TRIBAL COUNCIL

SECTION 1. The governing body of the Confederated Salish and Kootenai Tribes of the Flathead Reservation shall be the Tribal Council.

SECTION 2. The Council shall consist of ten councilmen to be elected from the districts as set forth hereafter, and Chiefs Martin Charlo and Eneas Paul Koostahtah.

SECTION 3. Representation from the districts hereby designated shall be as follows: Jocko Valley and Mission Districts, two councilmen each; Ronan, Pablo, Polson, Elmo-Dayton, Hot Springs-Camas Prairie, and Dixon, one councilman each.

SECTION 4. The Tribal Council shall have the power to change the districts and the representation from each district, based on community organization or otherwise, as deemed advisable, such change to be made by ordinance, but the total number of delegates shall not be changed as provided for in Section 2 of Article III of this Constitution.

SECTION 5. The Tribal Council so organized shall elect from within its own number a chairman, and a vice chairman, and from within or without its own membership, a secretary, treasurer; sergeant-at-arms, and such other officers and committees as may be deemed necessary.

SECTION 6. No person shall be a candidate for membership in the Tribal Council unless he shall be a member of the Confederated Tribes of the Flathead Reservation and shall have resided in the district of his candidacy for a period of one year next preceding the election.

SECTION 7. The Tribal Council of the Confederated Tribes of the Flathead Reservation shall be the sole judge of the qualifications of its members.

### ARTICLE IV: NOMINATIONS AND ELECTIONS

SECTION 1. The first election of a Tribal Council under this Constitution shall be called and supervised by the present Tribal Council within 30 days after the ratification and approval of this Constitution, and thereafter elections shall be held every two years on the third Saturday prior to the expiration of the terms of office of the members of the Tribal Council. At the first election, five councilmen shall be elected for a period of two years and five for a period of four years. The term of office of a councilman shall be for a period of four years unless otherwise provided herein.

SECTION 2. The Tribal Council or an election board appointed by the Council shall determine rules and regulations governing all elections.

SECTION 3. Any qualified member of the Confederated Tribes may announce his candidacy for the Council, within the district of his residence, notifying the Secretary of the Tribal Council in writing of his candidacy at least 15 days prior to the election. It shall be the duty of the Secretary of the Tribal Council to post in each district at least 10 days before the election, the names of all candidates for the Council who have met these requirements.

SECTION 4. The Tribal Council, or a board appointed by the Council, shall certify to the election of the members of the Council within 5 days after the election returns.

SECTION 5. Any member of the Confederated Tribes of the Flathead Reservation who 21 years of age or is over and who has maintained a legal residence for at least one year on the Flathead Reservation shall be entitled to vote.

SECTION 6. The Tribal Council, or a board appointed by the Tribal Council, shall designate the polling places and appoint all election officials.

#### ARTICLE V: VACANCIES AND REMOVAL FROM OFFICE

SECTION 1. If a councilman or official shall die, resign, permanently leave the reservation, or be removed from office, the Council shall declare the position vacant and appoint a successor to fill the unexpired term, provided that the person chosen to fill such vacancy shall be from the district in which such vacancy occurs.

SECTION 2. Any councilman who is proven guilty of improper conduct or gross neglect of duty may be expelled from the Council by a two-thirds vote of the membership of the Council voting in favor of such expulsion, and provided further, that the accused member shall be given full and fair opportunity to reply to any and all charges at a designated Council meeting. It is further stipulated that any such member shall be given a written statement of the charges against him at least five days before the meeting at which he is to appear.

#### ARTICLE VI: POWERS AND DUTIES OF THE TRIBAL COUNCIL

SECTION 1. The Tribal Council shall have the power, subject to any limitations imposed by the Statutes or the Constitution of the United States, and subject to all express restrictions upon such powers contained in this Constitution and attached Bylaws;

- (a) To regulate the uses and disposition of tribal property, to protect and preserve the tribal property, wildlife and natural resources of the Confederated Tribes, to cultivate Indian arts, crafts, and culture, to administer charity; to protect the health, security, and general welfare of the Confederated Tribes.
- (b) To employ legal counsel for the protection and advancement of the rights of the Flathead Confederated Tribes and their members, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior.
- (c) To negotiate with the Federal, State and local governments on behalf of the Confederated Tribes, and to advise and consult with the representatives of the Departments of the Government of the United States on all matters affecting the affairs of the Confederated Tribes.
- (d) To approve or veto any sale, disposition, lease, or encumbrance of tribal lands and tribal assets which may be authorized or executed by the Secretary of the Interior, the Commissioner of Indian Affairs, or any other agency of the Government, provided that no tribal lands shall be sold or encumbered or leased for a period in excess of five years, except for Governmental purposes.
- (e) To advise with the Secretary of the Interior with regard to all appropriation

- estimates or Federal projects for the benefit of the Confederated Tribes, prior to the submission of such estimates to the Congress.
- (f) To manage all economic affairs and enterprises of the Confederated Tribes in accordance with the terms of a charter to be issued by the Secretary of the Interior.
  - (g) To make assignments of tribal lands to members of the Confederated Tribes in conformity with Article VIII of this Constitution.
  - (h) To appropriate for tribal use of the reservation any available applicable tribal funds, provided that any such appropriation may be subject to review by the Secretary of the Interior, and provided, further, that any appropriation in excess of \$5,000 in any one fiscal year shall be of no effect until approved in a popular referendum.
  - (i) To promulgate and enforce ordinances, subject to review by the Secretary of the Interior, which would provide for assessments or license fees upon nonmembers doing business within the reservation, or obtaining special rights or privileges, and the same may also be applied to members of the Confederated Tribes, provided such ordinances have been approved by a referendum of the Confederated Tribes.
  - (j) To exclude from the restricted lands of the reservation persons not legally entitled to reside thereon, under ordinances which may be subject to review by the Secretary of the Interior.
  - (k) To enact resolutions or ordinances not inconsistent with Article II of this Constitution governing adoptions and abandonment of membership.
  - (l) To promulgate and enforce ordinances which shall be subject to review by the Secretary of the Interior, governing the conduct of members of the Confederated Tribes, and providing for the maintenance of law and order and the administration of justice by the establishment of an Indian Court, and defining its powers and duties.
  - (m) To purchase land of members of the Confederated Tribes for public purposes under condemnation proceedings in courts of competent jurisdiction.
  - (n) To promulgate and enforce ordinances which are intended to safeguard and promote the peace, safety, morals, and general welfare of the Confederated Tribes by regulating the conduct of trade and the use and disposition of property upon the reservation, providing that any ordinance directly affecting nonmembers shall be subject to review by the Secretary of the Interior.
  - (o) To charter subordinate organizations for economic purposes and to regulate the activities of all cooperative and other associations which may be organized under any charter issued under this Constitution.
  - (p) To regulate the inheritance of real and personal property, other than allotted lands, within the Flathead Reservation, subject to review by the Secretary of the Interior.
  - (q) To regulate the domestic relations of members of the Confederated Tribes.
  - (r) To recommend and provide for the appointment of guardians for orphans, minor members of the Confederated Tribes, and incompetents subject to the approval of the Secretary of the Interior, and to administer tribal and other funds or property which may be transferred or entrusted to the Confederated Tribes or Tribal Council for this purpose.
  - (s) To create and maintain a tribal fund by accepting grants or donations from any person, State, or the United States.

- (t) To delegate to subordinate boards or to cooperative associations which are open to all members of the Confederated Tribes, any of the following powers, reserving the right to review any action taken by virtue of such delegated power.
- (u) To adopt resolutions or ordinances to effectuate any of the foregoing powers.

SECTION 2. Any resolution or ordinance which by the terms of this constitution is subject to review by the Secretary of the Interior, shall be presented to the Superintendent of the Reservation who shall, within ten days thereafter, approve or disapprove the same, and if such ordinance or resolution is approved, it shall thereupon become effective, but the Superintendent shall transmit a copy of the same, bearing his endorsement, to the Secretary of the Interior who may, within 90 days from the date of enactment, rescind said ordinance or resolution for any cause, by notifying the Council of such action: Provided. That if the Superintendent shall refuse to approve any resolution or ordinance submitted to him, within ten days after its enactment, he shall advise the Council of his reasons therefore; and the Council, if such reasons appear to be insufficient, may refer it to the Secretary of the Interior, who may pass upon same and either approve or disapprove it within 90 days from its enactment.

SECTION 3. The council of the Confederated Tribes may exercise such further powers as may in the future be delegated to it by the Federal Government, either through order of the Secretary of the Interior or by Congress, or by the State Government or by members of the Confederated Tribes.

SECTION 4. Any rights and powers heretofore vested in the Confederated Tribes but not expressly referred to in this Constitution shall not be abridged by this Article, but may be exercised by the members of the Confederated Tribes through the adoption of appropriate bylaws and constitutional amendments.

#### ARTICLE VII: BILL OF RIGHTS

SECTION 1. All members of the Confederated Tribes over the age of 21 years shall have the right to vote in all tribal elections, subject to any restrictions as to residence as set forth in Article IV.

SECTION 2. All members of the Confederated Tribes shall be accorded equal opportunities to participate in the economic resources and activities of the reservation.

SECTION 3. All members of the Confederated Tribes may enjoy without hindrance freedom of worship, speech, press, and assembly.

SECTION 4. Any member of the Confederated Tribes accused of any offense, shall have the right to a prompt, open and public hearing, with due notice of the offense charged, and shall be permitted to summon witnesses in his own behalf and trial by jury shall be accorded, when duly requested, by any member accused of any offense punishable by more than 30 days' imprisonment, and excessive bail or cruel or unusual punishment shall not be imposed.

## ARTICLE VIII: LAND

SECTION 1. Allotted Lands. Allotted lands, including heirship lands, within the Flathead Reservation, shall continue to be held as heretofore by their present owners. The right of the individual Indian to hold or to part with his land, as under existing law, shall not be abrogated by anything contained in this Constitution, but the owner of restricted land may, with the approval of the Secretary of the Interior, voluntarily convey his land to the Confederated Tribes either in exchange for a money payment or in exchange for an assignment covering the same land or other land, as hereinafter provided.

The Tribal Council shall have the right to exchange tribal lands for individual allotments when necessary for consolidation of tribal holdings and subject to approval of the Secretary of the Interior. Such exchanges shall be based on the appraised value of the lands so exchanged, and the individual Indian shall hold the land so exchanged in the same manner as the original allotment.

SECTION 2. Tribal lands. The unallotted lands of the Flathead Reservation and all lands which may hereafter be acquired by the Flathead Confederated Tribes or by the United States in trust for the Flathead Confederated Tribes shall be held as tribal land and no part of such land shall be mortgaged or sold. Tribal lands shall not be allotted to individuals but may be assigned to members of the Confederated Tribes as hereinafter provided.

SECTION 3. Leasing of tribal lands. Tribal lands may be leased by the Tribal Council, with the approval of the Secretary of the Interior, for such periods of time as are permitted by law.

In the leasing of tribal lands preference shall be given, first, to Indian cooperative associations, and, secondly, to individual Indians who are members of the Confederated Tribes. No lease of tribal land to a nonmember shall be made by the Tribal Council unless it shall appear that no Indian cooperative association or individual member of the Confederated Tribes is able and willing to use the land and to pay a reasonable fee for such use.

Grazing permits covering tribal land may be issued by the Tribal Council, with the approval of the Secretary of the Interior, in the same manner and upon the same terms as leases.

SECTION 4. Grants of standard assignments. In any assignment of tribal lands which now are owned by the Confederated Tribes or which may hereafter be acquired for the Confederated Tribes by the United States, or purchased by the Confederated Tribes out of tribal funds, preference shall be given, first, to heads of families which are entirely landless, and, secondly, to heads of families which have no allotted lands or interests in allotted lands but shall have already received assignments consisting of less than 80 acres of agricultural land, or other land or interest in land of equal value.

No allotted member of the Confederated Tribes who may hereafter have the restrictions upon his land removed and whose land may thereafter be alienated shall be entitled to receive an assignment of lands as a landless Indian.

Assignments made under this section shall be for the primary purpose of establishing homes

for landless Indians, and shall be known as “Standard Assignments.”

The Tribal Council may, if it seems fit, charge a fee of not to exceed \$5.00 on approval of an assignment of land made under this section.

SECTION 5. Tenure of standard assignments. If any member of the Confederated Tribes holding a standard assignment of land shall, for a period of one year, fail to use the land so assigned, or shall use such land for any unlawful purposes, his assignment may be canceled by the Tribal Council after he has had due notice and an opportunity to be heard, and the said land may be reassigned in accordance with the provisions of Section 4 of this Article.

Upon the death of any Indian holding a “Standard Assignment”, his heirs, or other individuals, designated by him by will or by written request, shall have a preference in the reassignment of the land, provided such persons are members of the Confederated Tribes who would be eligible to receive a “Standard Assignment.”

SECTION 6. Grant of exchange assignment. Any member of the Confederated Tribes who owns an allotment or any share of heirship land, or any unencumbered deeded land within the reservations, may voluntarily transfer his interest in such land to the Confederated Tribes in exchange for an assignment to the same land or to other lands of equal value. If the assignee prefers, he may receive, in lieu of a specific tract of land, a proportionate share in a larger grazing unit.

Assignments made under this Section shall be known as “Exchange Assignments.”

SECTION 7. Leasing of exchange assignments. Exchange assignments may be used by the assignee or leased by him to Indian cooperative associations, to individual members of the Confederated Tribes, or, if no individual Indian or Indian cooperative association is able and willing to rent the land at a reasonable fee, such assignments may be leased to non-Indians in the same manner as allotted lands.

SECTION 8. Inheritance of exchange assignments. Upon the death of the holder of any exchange assignment, such land shall be reassigned by the Tribal Council to his heirs or devisees, subject to the following conditions:

- (a) Such lands may not be reassigned to any heirs or devisees who are not members of the Confederated Tribes, except that a life assignment may be made to the surviving widower or widow of the holder of an assignment.
- (b) Such lands may not be reassigned to any heir or devisee who already holds more than 320 acres of grazing land, or other land or interests in lands of equal value, either under allotment or under assignment.
- (c) Such lands may not be subdivided into units smaller than 160 acres, and no area of agricultural land shall be subdivided into units smaller than two and one-half acres, except that land used for buildings or other improvements may be divided to suit the convenience of the parties. Where it is impossible to divide the land properly among the eligible heirs or devisees, the Tribal Council shall issue to the eligible heirs or devisees, grazing permits or other interest in tribal lands of the same value as the assignment of the decedent.

- (d) If there are no eligible heirs or devisees of the decedent, the land shall be eligible for reassignment in accordance with the provisions of Section 4 of this Article.

SECTION 9. Inheritance of improvements. Improvements of any character made upon assigned land may be bequeathed to and inherited by members of the Confederated Tribes, or otherwise disposed of under such regulations as the Tribal Council shall provide. No permanent improvements shall be removed from the land without the consent of the Tribal Council.

SECTION 10. Exchange of assignments. Assignments may be exchanged between members of the Confederated Tribes by common consent in such manner as the Tribal Council shall designate.

- (a) Use of unassigned community land. Community land which is not assigned, including community timber reserves, shall be managed by the community council for the benefit of the members of the entire community, and any cash income derived from such land shall accrue to the benefit of the community as a whole.

SECTION 11. Purchase of land by community. Tribal funds may be used, with the consent of the Secretary of the Interior, to acquire land under the following conditions:

- (a) Land within the Flathead Reservation, or adjacent to the boundaries thereof which is not now in Indian ownership, may be purchased by or for the Confederated Tribes.
- (b) Restricted land which is in heirship status at the time of the adoption and approval of this Constitution may be purchased by or for the Confederated Tribes with the consent of all the adult heirs, and the legal guardian of minor heirs, or incompetent heirs, payment therefore to be made as may be agreed upon.
- (c) Land owned by any member of the Confederated Tribes who is over the age of 60 years, or who is physically incapacitated, may be transferred by its owner to the Confederated Tribes in exchange for a pension or not more than twice the annual rental value of the land for the life of the pensioner, to be paid out of available tribal funds.
- (d) Land in excess of 320 acres owned by any member of the Confederated Tribes, with the consent of the owner, payments to be made under such terms as may be agreed upon.
- (e) Land owned by any member of the Confederated Tribes who desires to leave the reservation permanently may be purchased by the Confederated Tribes, under such terms as may be agreed upon.

SECTION 12. Method of making assignments. Applications for assignments shall be filed with the Secretary of the Council and shall be in writing, setting forth the name of the person or persons applying for the land and as accurate a description of the land desired as the circumstances will permit. Notices of all applications received by the Secretary shall be posted by him in the agency office and in at least three conspicuous places in the district in which the land is located, for not less than 20 days before action is taken by the Council.

Any member of the Confederated Tribes wishing to oppose the granting of an assignment



shall do so in writing, setting forth his objections, to be filed with the Secretary of the Council, and may, if he so desires, appear before the Council to present evidence. The Secretary of the Council shall furnish the Superintendent or other officer in charge of the agency a complete record of all action taken by the Council on the application for assignment of land, and a complete record of assignments shall be kept in the agency office and shall be open for inspection by all members of the Confederated Tribes.

The Council shall draw up one or more forms for standard and exchange assignments, which shall be subject to the approval of the Secretary of the Interior.

#### ARTICLE IX: REFERENDUM

SECTION 1. Upon a petition of at least one-third (1/3) of the eligible voters of the Confederated Tribes, or upon the request of a majority of the members of the Tribal Council, any enacted or proposed ordinance or resolution of the Council shall be submitted to a popular referendum, and the vote of a majority of the qualified voters voting in such referendum shall be conclusive and binding on the Tribal Council, provided that at least thirty percent (30%) of the eligible voters shall vote in such election.

#### ARTICLE X: AMENDMENTS

SECTION 1. This Constitution and Bylaws may be amended by a majority vote of the qualified voters of the Confederated Tribes voting at an election called for that purpose by the Secretary of the Interior, provided that at least thirty percent (30%) of those entitled to vote shall vote in such election; but no amendment shall become effective until it shall have been approved by the Secretary of the Interior. It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment, at the request of two-thirds of the Council, or upon presentation of a petition signed by one-third (1/3) of the qualified voters, members of the Confederated Tribes.

#### BYLAWS

##### ARTICLE I: THE TRIBAL COUNCIL

SECTION 1. The Chairman of the Council shall preside over all meetings of the Council, perform all duties of chairman, and exercise any authority detailed to him, and he shall be entitled to vote on all questions.

SECTION 2. The vice chairman shall assist the chairman when called on so to do, in the absence of the chairman, shall preside, and when so presiding shall have all the privileges, duties and responsibilities of the chairman.

SECTION 3. The Council secretary shall forward a copy of the minutes of all meetings to the Superintendent of the Reservation and to the Commissioner of Indian Affairs.

SECTION 4. The duties of all appointed boards or officers of the organization shall be clearly defined by resolutions of the Council at the time of their creation or appointment. Such boards

and officers shall report from time to time as required to the Council and their activities and decisions shall be subject to review by the Council upon petition of any person aggrieved.

SECTION 5. Newly elected members who have been duly certified shall be installed at the first regular meeting of the Tribal Council.

SECTION 6. Each member of the Tribal Council and each officer or subordinate officer, elected or appointed hereunder, shall take an oath of office prior to assuming the duties thereof, by which oath, he shall pledge himself to support and defend the Constitution of the United States and this Constitution and Bylaws. The following form of oath of office shall be given: "I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, to carry out faithfully and impartially, the duties of my office to the best of my ability; to cooperate, promote, and protect the best interests of my Tribe, in accordance with this Constitution and Bylaws."

SECTION 7. Regular meetings of the Tribal Council shall be held on the first Saturdays of January, April, July, and October, at 9:00 o'clock a.m., at the Flathead Agency.

SECTION 8. Special meetings may be called by a written notice signed by the chairman or a majority of the Tribal Council and when so called the Tribal Council shall have power to transact business as in regular meetings.

SECTION 9. No business shall be transacted unless a quorum is present which shall consist of two-thirds (2/3) of the entire membership.

SECTION 10. Order of business:

- (a) Call to order by chairman.
- (b) Roll call.
- (c) Reading of minutes of last meeting
- (d) Unfinished business.
- (e) Reports.
- (f) New business.
- (g) Adjournment.

SECTION 11. It shall be the duty of each member of the Tribal Council to make reports to the district from which he is elected, concerning the proceedings of the Tribal Council.

SECTION 12. The Tribal Council may prescribe such salaries for officers or members of the Council as it deems advisable, from such funds as may be available.

## ARTICLE II: ORDINANCES AND RESOLUTIONS

SECTION 1. All final decisions of the Council on matters of general and permanent interest to the members of the Confederated Tribes shall be embodied in ordinances. Such ordinances shall be published from time to time for the information and education of the members of the Confederated Tribes.

SECTION 2. All final decisions of the Council on matters of temporary interest (such as action

on the reservation budget for a single year, or petitions to Congress or the Secretary of the Interior) or relating especially to particular individuals or officials (such as adoption of members, instructions for tribal employees or rules of order for the Council) shall be embodied in resolutions. Such resolutions shall be recorded in a special book which shall be open to inspection by members of the Confederated Tribes.

SECTION 3. All questions of procedure (such as acceptance of Committee reports or invitations to outsiders to speak) shall be decided by action of the Council or by ruling of the Chairman, if no objection is heard.

In all ordinances, resolutions or motions the Council may act by majority vote, but all matters of importance shall be fully discussed and a reasonable attempt shall be made to secure unanimous agreement.

SECTION 4. Legislative forms. Every ordinance shall begin with the words: "Be it enacted by the Council of the Confederated Salish and Kootenai Tribes-."

SECTION 5. Every resolution shall begin with the words: "Be it resolved by the Council of the Confederated Salish and Kootenai Tribes-."

SECTION 6. Every ordinance or resolution shall contain a recital of the laws of the United States and the provisions of this Constitution under which authority for the said ordinance or resolution is found.

#### ARTICLE III: RATIFICATION OF CONSTITUTION AND BYLAWS

This Constitution and the attached Bylaws, when adopted by a majority vote of the voters of the Confederated Tribes voting at a special election called by the Secretary of the Interior, in which at least thirty (30) percent of those entitled to vote shall vote, shall be submitted to the Secretary of the Interior for his approval, and shall be in force from the date of such approval.

#### CERTIFICATE OF ADOPTION

Pursuant to an order, approved September 25, 1935, by the Secretary of the Interior, the attached Constitution and Bylaws were submitted for ratification to the members of the Confederated Salish and Kootenai Tribes of the Flathead Reservation and were on October 4, 1935, duly adopted by a majority vote of the members of said voting in an election in which over 30 percent of those entitled to vote cast their ballots, in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 14, 1935 (Pub., No. 147, 74<sup>th</sup> Cong.).