

**SAN CARLOS APACHE TRIBE
SAN CARLOS APACHE INDIAN RESERVATION
SAN CARLOS, ARIZONA**

No. MY-21-061

(Approving Residential Permit for Enrolled Members)

WHEREAS, the San Carlos Apache Tribe (the “Tribe”) is a federally recognized Indian tribe organized pursuant to the provisions of Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984); and

WHEREAS, the San Carlos Council (“Council”) has the authority, among other things, to “represent the Tribe and act in all matters that concern the welfare of the Tribe, and to make decisions not inconsistent with or contrary to [the Tribe’s] Constitution and Bylaws,” and to “veto the sale, disposition, lease or encumbrance of tribal lands, interest in lands ... that may be authorized by any agency or employee of the government”, which includes the inherent authority to approve permits, pursuant to Article V, Sections 1(a) and (e) of the Amended Constitution; and

WHEREAS, pursuant to Resolution No. JN-16-109, the Council requested to contract the Bureau of Indian Affairs Realty Program, pursuant to the Indian Self-Determination and Education Assistance Act (P.L. 93-638, 25 U.S.C. § 450 et seq.), and such request was approved by the U.S. Department of the Interior Bureau of Indian Affairs (“BIA”) Western Regional Office on December 17, 2020, with final execution occurring on January 8, 2021; and

WHEREAS, performance of the Realty Program is be carried-out by the Tribe’s Office of the General Manager Land Use Department; however, the General Manager this day advises that the BIA San Carlos Agency remains in the transition process, including making copies of its records for delivery to the GM’s Office; and

WHEREAS, the General Manager further advises that the Tribe has submitted its application for GM employees to obtain credentials for the Trust Asset and Accounting Management System which is required for uploading of approved leases, including any modifications or assignment but there is no timeframe on when such approval will be obtained; and

WHEREAS, the General Manager further advises that the office is seeking clarity from the San Carlos Agency on whether proposed lease applications, for BIA approval, pursuant to 25 CFR 162.018, will be sent to the San Carlos Agency or the Fort Apache Agency; and

WHEREAS, in spite of these questions, the General Manager advises that enrolled members continue to request for lease applications and, at this time, approximately 15 enrolled members are seeking land to reside on; and

WHEREAS, pursuant to section 20 of the Tribe's Property Code, only a leasehold interest or permit interest, may be mortgaged; and

WHEREAS, federal law defines permit as "a written, non-assignable agreement between Indian land-owners or BIA and the permittee, whereby the permittee is granted a temporary, revocable privilege to use Indian land or Government land, for a specified purpose." 25 CFR § 162.003; and

WHEREAS, as a solution for the immediate present issue of enrolled members seeking land to reside on, combined with the issues the Tribe is addressing with the BIA, the Tribe's Department of Justice ("DOJ") this day recommends the Council approve residential permits, as an option for enrolled members to seek and obtain for residential purposes, and that such permit allows for the mortgage of the permit interest; and

WHEREAS, pursuant to 25 CFR § 162.007, permits do not require review and approval by the BIA; and

WHEREAS, the Tribe's DOJ this day presents a Residential Permit Application, Policies and Procedures for Residential Permits, and a Residential Permit Template, as attached and incorporated by this reference for approval; and

WHEREAS, the Council's Planning and Zoning Committee has reviewed such request and recommends to the Council approval of said request; and

WHEREAS, the Council concurs with both the Department of Justice's request and the recommendation of the Committee and finds that valid circumstances exist sufficient to approve residential permits for immediate residential purposes and thus would be in the best interest of the Tribe and said enrolled member.

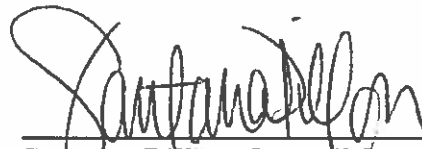
BE IT RESOLVED by the Council of the San Carlos Apache Tribe that:

1. The Council hereby approves a Residential Permit Application, Residential Policies and Procedures and a Residential Permit Template, as attached and incorporated by this reference, for residential purposes on the San Carlos Apache Reservation.
2. The Permittee shall pay a permit fee of \$1.00 per acre or fraction thereof, per year, payable in full within two years from the date of adoption of this Resolution.

3. The Permittee shall complete construction of a residence, which shall be defined as a house or a manufactured mobile home, within two (2) years of approval of the Permit. The failure to complete construction within two (2) years shall result in the revocation of the permit to the Tribe. The Permittee, through the Tribe's Office of the General Manager, may extend upon request the two-year period for an additional year if construction has begun and can be completed within the extended period, subject to review and approval by the Tribe's General Manager's Office.
5. Each residential permit is subject to all existing roads, rights-of-way, utility and service line agreements, including ingress and egress to those roads, rights-of-way, utility and service line agreements.
6. The Permittee may enter into service line agreements to provide for utilities to the residential assigned area.
7. By authority of this Resolution, any prior existing residential lease or land assignment in effect for each Lessee for an area not identified within this Resolution, is hereby canceled in its entirety.
8. The effective date of the commencement of the residential permit shall be the date of signature of the Chairman.
9. The Chairman of the Tribe or his designee is hereby authorized to sign all documents necessary to effectuate this Resolution.

CERTIFICATION

I, the undersigned, Secretary of the San Carlos Council, hereby certify that the Council is composed of eleven (11) members, of whom eleven (11), constituting a quorum, were at a Regular Meeting hereto held on the 4th day of May, 2021, and that the foregoing Resolution No. MY-21-061 was duly adopted by a vote of FOR: 10; OPPOSED: 0; ABSTAINED: 0; of the Tribal Council pursuant to Article V, Section 1 (a) of the Amended Constitution and Bylaws of the San Carlos Apache Tribe, effective, February 24, 1954.



Santana Dillon, Council Secretary
SAN CARLOS APACHE TRIBE