

RESOLUTION NO. 193 -14
OF THE GOVERNING BODY OF THE
YAVAPAI-APACHE NATION

**A Resolution Enacting into Law the Yavapai-Apache Nation
Land Use Code, Chapter 7 - Garden Plots and Corrals and the
Revocable Land Use Permit – Garden Plots and Corrals**

- WHEREAS:** The Yavapai-Apache Tribal Council (“Council”) is authorized to represent the Yavapai-Apache Nation (“Nation”) and act on all matters that concern the health and welfare of the Nation, and to make decisions not inconsistent with or contrary to the Constitution of the Yavapai-Apache Nation (“Constitution”) as provided by Article V (a) of the Constitution; and
- WHEREAS:** The Council, as the legislative body of the Nation, is authorized to enact laws, ordinances, and resolutions incidental to the exercise of its legislative powers as provided by Article V(v) of the Constitution; and
- WHEREAS:** The Council is authorized to regulate the use and disposition of all land within the jurisdiction of the Nation, including but not limited to the enactment of ordinances providing for the manner of making, holding and revoking assignments and use of tribal lands and interests therein, as provided by Article V(e) of the Constitution; and
- WHEREAS:** The Council wishes to adopt into law, as part of an overall Yavapai-Apache Nation Land Use Code, provisions addressing the assignment to and use of garden plots and corrals by tribal members within the Nation’s lands and thereby provide uniform standards for evaluating and acting on tribal member requests for temporary use of Yavapai-Apache Nation land for gardening, livestock containment or poultry control; to define the land use application process; to provide for the oversight and authority of the Nation’s Agricultural Department in relation to land use permits; and for other purposes as set out in the Code.
- WHEREAS:** The Nation’s Agricultural Department, in conjunction with the Attorney General, has prepared for Council review the Yavapai-Apache Nation Land Use Code, Chapter 7 - Garden Plots and Corrals and the Revocable Land Use Permit – Garden Plots and Corrals, to be used in implementing the Code (*both of which are attached hereto as Exhibit A*); and
- WHEREAS:** The Council has completed its review of the Yavapai-Apache Nation Land Use Code, Chapter 7 - Garden Plots and Corrals, and the Revocable Land Use Permit – Garden Plots and Corrals, and the Council finds it in the best interest of the Nation that the Council enact into law the Yavapai-Apache


Nation Land Use Code, Chapter 7 - Garden Plots and Corrals and the Revocable Land Use Permit – Garden Plots and Corrals in the form attached to this resolution as Exhibit A.

NOW THEREFORE BE IT RESOLVED that the Yavapai-Apache Tribal Council, in Council assembled, at which a quorum is present, hereby enacts into law the Yavapai-Apache Nation Land Use Code, Chapter 7 - Garden Plots and Corrals, together with the Revocable Land Use Permit – Garden Plots and Corrals (*both of which are attached to this resolution as Exhibit A*) and directs implementation of the Code and its permitting requirements effective immediately.

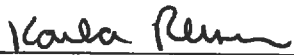
BE IT FINALLY RESOLVED that the Chairman and Vice-Chairwoman, or either of them, are hereby authorized to take such further action as deemed necessary to carry out the intent and purposes of this Resolution.

CERTIFICATION

I hereby certify that the foregoing resolution was adopted by an affirmative vote of the Tribal Council, with a quorum in attendance, presented for approval on October 2 2014, by a vote of 7 7 in favor, 0 opposed and 0 abstaining, pursuant to the authority contained under the Constitution of the Yavapai-Apache Nation as cited above.


Thomas Beauty, Chairman

ATTEST:


Karla Reimer, Council Secretary

Approved as to form:


Office of the Attorney General

EXHIBIT A

Yavapai-Apache Nation Land Use Code, Chapter 7 - Garden Plots and
Corrals

Revocable Land Use Permit – Garden Plots and Corrals

October 2, 2014

TITLE _____

YAVAPAI APACHE NATION LAND USE CODE
CHAPTER 7- GARDEN PLOTS AND CORRALS

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Section 701. PURPOSE

The Yavapai-Apache Nation, acting through its Tribal Council, adopts this Land Use Code – Garden Plots and Corral Areas (the “Code”) to:

- A. Provide for the use of designated areas of the Nation’s Lands by the Nation’s Tribal Members for specified purposes;
- B. Ensure that no danger or threat to the historical, cultural, traditional, and environmental properties or practices of the Nation and its members; as well as to the health, safety, and welfare of the residents of the Nation’s Lands, is or will be created by granting individual Tribal Members the right to occupy and use a specified portion of the Nation’s land for individual purposes;
- C. Maintain a balance between the widest possible beneficial use of the Nation’s lands for the Nation as a whole while at the same time allowing for the individual use of such lands in a productive and aesthetically pleasing manner.
- D. Provide uniform standards and principles necessary to evaluate and determine requests for temporary use of Yavapai-Apache Nation lands for gardening, livestock containment or poultry control; and
- E. Provide a land use application process; provide for the oversight and authority of the Agricultural Department in relation to land use permits; and for other purposes.

Section 702. DEFINITIONS

- A. “Agricultural Department” (“Agricultural Department” or “Department”) means the governmental Department within the Executive Branch of the Yavapai-Apache Nation that has been delegated responsibility by the Tribal Council for the conservation, protection and planning for use of the Nation’s Lands.
- B. “Applicant” means a Tribal Member making Application to the Department to obtain a Permit for the use of land for a Garden Plot or a Corral Area.
- C. “Application” means the written request submitted by an Applicant to the Department, on a form of Application provided by the Department, requesting a Permit for the use of land for a Garden Plot or Corral Area.
- D. “Certificate of Renewal” means the official document authorized and provided by the Department to the Permittee evidencing the renewal and continued existence of a Land Use Permit.
- E. “Council” means the Yavapai-Apache Nation Tribal Council.

- F. “Corral Area” means a parcel of land measuring no more than 50 feet by 150 feet in size enclosed and designated for use by Tribal Members to hold Livestock or Poultry owned by the Tribal Member.
- G. “Garden Plot” means a parcel of land measuring no more than 40 feet by 40 feet in size designated for use by Tribal Members to grow legal crops for personal consumption or, to give away, or for sale in the local convenience store/farmer’s market.
- H. “Letter of Deficiency” means an official written notification sent by the Department to the Permittee informing the Permittee of Permit violations.
- I. “Livestock” means horses, sheep, goats, cows, donkeys, mules, pigs, and such other animals as the Department designates.
- J. “Nation” means the Yavapai-Apache Nation, a federally recognized Indian tribe organized and operating under Section 16 of the Indian Reorganization Act of 1934 and in accordance with its sovereign powers.
- K. “Nuisance” means any condition or use of permitted land which endangers life, property or health, gives offense to the senses and/or obstructs the reasonable and comfortable use of other property.
- L. “Permit” means the revocable Land Use Permit as further defined hereinbelow at Section 706 E.
- M. “Permitted Land” means a parcel of land that has been designated for individual Tribal Member use in a Land Use Permit.
- N. “Permittee” means the person who applies for and is granted a Land Use Permit.
- O. “Permitter” means the Yavapai-Apache Nation.
- P. “Poultry” means chickens, roosters, hens, geese, turkeys, ducks and such other similar fowl as designated by the Department.
- Q. “Premises” means the parcel of Permitted Land permitted by the Nation under this Code for use as either a Garden Plot or a Corral Area.
- R. “Sub-Permit” means a Council approved use by a third-party Sub-Permittee of a Premises permitted to a Permittee who is legitimately and temporarily absent from the lands of the Nation.

- S. “Sub-Permittee” means a Tribal Member possessing and using the Premises of a Permittee under a Sub-Permit during the Permittee’s temporary absence from the lands of the Nation.
- T. “Lands of the Nation” means land beneficially owned by the Yavapai-Apache Nation and held in trust by the United States and referred to in this code as “tribal land”, “land”, “lands of the Nation” or any other connotation referring to the lands of the Nation owned by the Nation and held for the common benefit of the Nation and its Members.
- U. “Land Use Permit” means the approval evidenced in writing whereby the Nation grants an individual the right to use a particular parcel of the Nation’s land for a particular period of time as a Garden Plot or a Corral Area.
- V. “Tribal Council” or “Council” means the governing body of the Yavapai-Apache Nation as constituted under the Nation’s constitution.
- W. “Tribal Member” means a person who is an enrolled member of the Yavapai-Apache Nation.

Section 703. POLICY

A. The lands of the Nation are owned by the Nation for the common use and benefit of all Tribal Members. All Tribal Members are, within limits and to the extent land is available, permitted to share in the benefits of the Nation’s lands.

B. Because limited acreage is available to the Nation for all land uses, the Nation hereby establishes a system intended to fairly apportion among Tribal Members the right to occupy and use a portion of the Nation’s lands for individual use. The Council intends, through the requirements of this Code, to provide Tribal Members with an opportunity to utilize a portion of the Nation’s lands for individual use as specified in this Code.

C. An individual Tribal Member may utilize the Lands of the Nation for individual use and benefit only in accordance with the provisions of this Code and only on terms authorized by the Council. No use of the lands of the Nation for individual uses shall be valid unless approved by the Council following the recommendation of the Department. Council approval shall be evidenced by a Land Use Permit in a form adopted by Council Resolution.

D. The only individual uses of the Nation’s lands that are authorized under this Code are for the use by Tribal Members of permitted lands for a Garden Plot or a Corral Area. No other individual uses of the Nation’s lands shall be recognized or valid unless evidenced by some other Council-authorized approval, such as an authorized home site or business lease.

**Section 704. AGRICULTURAL DEPARTMENT; PURPOSE AND AUTHORITY;
APPLICATION REVIEW**

A. The Nation's Agricultural Department manages the Nation's farm and ranch operations as well as carrying out other land and water related responsibilities as assigned by the Tribal Council from time to time. The Department also recommends to the Council the best uses for the Nation's land and water resources.

B. The Department shall review all Applications for Land Use Permits and provide a written recommendation to the Council concerning the approval or denial of each Application. The Department shall also carry out all other responsibilities as provided in this Code or as otherwise assigned by the Tribal Council.

C. The Department is authorized to implement this Code. For any Permitting issue not provided for under this Code, the Department is authorized to draft Regulations for Council approval to address such issues.

D. When the Department receives an Application or other request for action under this Code, the Department shall review the Application and any accompanying data or information for completeness. If additional information is needed by the Department, or any other program, office or department of the Nation, the Applicant shall provide the needed information prior to processing of the Application by the Department. Should deficiencies be found in the Application or request, the Department shall return the Application to the Applicant for correction.

E. Consistent with the requirements of Section 705 below, when the Department receives a completed application, the Department shall convene to review the Application and determine whether to make a recommendation of approval or denial to the Council. In making its review and developing its recommendation, the Department shall take into consideration the requirements set forth in this Code.

F. The Department shall keep a complete record on all Applications filed, information gathered in relation to each Application, recommendations made by the Department to the Council and the Council action taken on such recommendation.

G. The Department shall prepare a written inventory of the Nation's reservation lands; including maps, drawings, aerial photographs, and other relevant data, documenting and showing all land areas currently assigned, used or otherwise designated for use as garden plots and corrals. All such garden plots and corrals shall be identified in the inventory with at least the following information: (1) name of current assignee, (2) the area of the reservation where the assignment is located, (3) the size of the assigned area, (4) a numerical or other identification for each garden plot or corral area for ease of reference, (5) availability of water and power at the site, and (6) any other information deemed relevant by the Department in managing the garden plots and corrals and as may otherwise be required for implementing the requirements of this Code.

H. All prior enactments, ordinances and resolutions of the Tribal Council vesting responsibility for management of the Nation's land and water resources in any Department or Program of the Nation other than the Department under this Code are hereby rescinded, including but not limited to Tribal Council Resolution 52-2001.

Section 705. LAND USE PERMIT APPLICATION

A. A Tribal Member seeking a Permit to use the Nation's land for a garden plot and/or corral area shall apply to the Department. The Department shall be responsible for developing and periodically updating an Application form upon which the application is made. The Application form shall include at a minimum the following information:

1. The Applicant's name;
2. The Applicant's physical address (not P.O. Box);
3. Indicate whether the application is for a garden plot or corral area;
4. An assurance that:
 - a. The Applicant resides within ten (10) miles of the Nation's land;
 - b. The Applicant has received a copy of this Code and will abide by all the terms and requirements of the Code, the Land Use Permit, other applicable Nation or federal law, and any rules implemented by the Department;
5. The location of the land the Applicant is proposing to use;
6. The date, time and signature of the Applicant; and
7. Any other information required by the Department to be contained on the form as amended from time to time.

B. The Department shall ensure that all Applications, together with any other information required by the Department, are complete in order to enable the Department to make an informed recommendation to the Council concerning approval or denial of the application. Upon completion of the Application, the Department shall, within 15 working days, make a written recommendation to the Council concerning the approval or denial of the Application and forward the recommendation and the Application, together with a draft Council Resolution, to the Council for its action.

C. An Application filing fee of \$25.00 Dollars shall be paid to the Department by the Applicant at the time of filing each Application. At the discretion of the Council, the filing fee may be applied towards the first annual fee for a Land Use Permit should the Land Use Permit be approved by the Tribal Council. In the event a Land Use Permit is not granted, the filing fee shall not be reimbursed to the Applicant, but shall be retained by the Nation to offset the costs of processing the Application. The Department may request from the Council an increase or decrease to the filing fee from time to time as needed.

D. Any garden plot and/or corral area that is an authorized use on or before the effective date of this Code, as determined by the Department or as set out in any prior

permit, assignment, permission approved by the Tribal Council (“Prior Permit”), shall be grandfathered and the holder of the authorized Prior Permit shall be issued a Permit by the Department without the requirement of applying for a new Permit. All such grandfathered Permittees shall thereafter be subject to the annual Permit renewal requirements of this Code and, except as expressly provided herein, all other requirements of this Code shall apply to all grandfathered Permits and Permittees. In all cases where the garden plot/and or corral recognized under a Prior Permit is not being currently used or is not being used to the full extent of the size of the garden plot or corral authorized under the Prior Permit, the Prior Permit holder shall not be issued a Permit under this Section 705 D, but shall instead have the right to apply for a new Permit under this Code subject to all restrictions of the Code, including but not limited to the size restrictions imposed on new permits for garden plots and corrals.

Section 706. PERMIT ELIGIBILITY AND GENERAL REQUIREMENTS

A. Every Tribal Member, eighteen (18) years or older, or who is married regardless of age, shall be eligible to obtain a Land Use Permit (“Permit”).

B. No person shall be issued more Permits than he or she can properly use. Therefore, only one Garden Plot and/or one Corral Area is allowed to each Tribal Member at any particular time.

1. This limitation may be waived by the Council upon recommendation of the Department where:
 - a. Adequate land is available to accommodate the request for additional land;
 - b. No other Tribal Member, who has filed an Application for a Permit and who is otherwise eligible to obtain a Permit, will be denied use of the Nation’s land if the limitation is waived;
 - c. The Applicant is otherwise in compliance with all other requirements of any Permit already issued to the Applicant;
 - d. The Applicant demonstrates, to the satisfaction of the Department and the Council, the full use of his current Permit and a legitimate need for the additional land;
 - e. The requested land site would otherwise go unused; and
 - f. Any other requirements the Department or the Council deem appropriate shall have been satisfied before the additional land may be considered for permitting.
2. Permittees who are permitted additional Garden Plots and Corral Areas through the above waiver process; do not have the right to have their additional Permit(s) for such Premises automatically renewed on an annual basis. Instead, the annual renewal of these additional Permit(s) is contingent on the approval of the Council

following the recommendation of the Department utilizing the review criteria set forth above.

C. In issuing Permits or renewals, preference shall be given first to the Permittee currently possessing the Premises, provided he or she has shown proper utilization of the Premises and continues to be eligible to possess a Permit under this Code; second, to eligible Tribal Members who are the immediate family members (spouse, children, parents, siblings) of the Permittee who currently possess, or who possessed immediately prior to the designation of a new Permittee, the Premises in question; and third, to any other eligible Tribal Member.

D. The Department may limit the number and/or type of Livestock or Poultry contained in any Corral Area based on the size and location of the Corral Area.

E. A Permit is the temporary revocable authorization for the use of a designated Premises. The Permit is a limited right to use land in accordance with the terms of the Permit and this Code and the Permit does not confer on the Permit holder any ownership or equity right, title, or other property interest in the permitted land nor shall said Permit be considered a property right for any purpose. Once issued, the Nation may revoke and terminate a Permit in its complete discretion at any time in accordance with the requirements of this Code.

F. If a Permit is issued under this Code, the Permittee by accepting the Permit thereby relinquishes and disclaims all past, present or future claims of ownership or equitable right, title or interest in the Premises held under the issued Permit, other than the temporary use created under the provisions of the issued Permit and this Code.

G. Any antiquities, including but not limited to, graves, human remains, ruins, projectile points, mortars, grinding stones, or any other cultural resources located upon a Premises are and shall be and remain the exclusive property of the Nation. Said antiquities shall not be disturbed. Immediately upon discovering any such antiquities within a Premises, the Permittee shall immediately notify the Department as to the type of antiquities found and their location on the Premises.

H. In exercising the use right granted by the Permit, the Permittee shall fully comply with all laws of the Nation and any applicable federal laws, orders and regulations as administered by appropriate authorities, including, but not limited to laws and regulations related to the pollution of streams, reservoirs, ground water or water courses with respect to pollution of any kind or the discharge of refuse or other pollutants.

I. The use rights and privileges granted under this Code and a Permit are personal to and are conferred only on the Permittee. Permits are non-transferable without consent of the Council and/or in accordance with the requirements of this Code. Once a Permit is revoked, the Premises shall immediately revert to the Nation in its entirety.

Section 707. CORRAL AREAS AND GARDEN PLOTS

A. All Livestock or Poultry kept in Corral Areas must be owned by the Permittee and the Department shall require proof of ownership from the Permittee as to all Livestock and Poultry kept on the Premises. Maintaining or allowing Livestock and/or Poultry in a number greater than that approved by the Department or maintaining Livestock and/or Poultry not owned by the Permittee on the Premises shall be cause for termination of the Permit. The Department shall develop for Tribal Council review and approval, regulations implementing the ownership requirements of this Section 707 A.

B. Corral Areas are “feed-only” due to their limited size. Permittees shall provide adequate feed, water and suitable shelter for winter and summer season use (including shade from the summer heat), for all Livestock and/or Poultry maintained on the Premises. Permittees shall be solely responsible, at their own expense, for repairing water lines servicing their corrals and shall protect any such exposed water lines from freezing temperatures during the winter season. Permittees shall avoid over-watering (using more water than necessary, as determined by the Department) on any garden plot or corral. Over-watering shall be cause to terminate the Permit.

C. No Livestock or Poultry shall be allowed or maintained in Garden Plots. Livestock and Poultry are allowed only if a Permittee has received a Corral Area Permit under the requirements of this Code.

D. The Permittee shall restrict all Livestock and Poultry to the Corral Area authorized by the Permit. Livestock and Poultry shall not be allowed to wander off the Premises unless such Livestock or Poultry is restrained and under the direct supervision and control of the Permittee.

E. The Permittee is solely responsible for the care, upkeep and health of all Livestock and Poultry maintained by the Permittee. The Permittee shall ensure that all Livestock and Poultry receive their proper immunizations, food, water shelter and shade. Permittee’s failure to carry out these responsibilities shall be cause for immediate revocation of their corral permit.

F. If Livestock and/or Poultry authorized under a Permit become a Nuisance or otherwise violate applicable law, the Department is authorized to require the Permittee to reduce the number of Livestock and/or Poultry and/or remove the Livestock and/or Poultry altogether. The Department shall provide notice to the Permittee under Section 713 D, “Violations, Investigations and Terminations” set out below, to allow the Permittee the opportunity to correct the Nuisance and/or violation. In exceptional cases, such as a diseased animal, the Department shall be authorized to require immediate removal from the Premises of the Livestock and/or Poultry in question.

G. Garden Plots shall not exceed forty feet by forty feet (40’ x 40’). Corral Areas shall not exceed one hundred feet by one hundred fifty feet (100’ x 150’). However, any Garden Plot and/or Corral Area which is an authorized use on or before the date of approval of this Code shall not be subject to these size limitations. Furthermore,

any Livestock or Poultry limitation contained in this Code shall not apply to any Premises existing at the time of adoption of this Code, provided that, the Livestock or Poultry contained within any such existing Premises shall not be increased without the written permission of the Department. All other provisions and terms contained within this Code shall otherwise apply to existing Garden and Corral Areas.

Section 708. PERMIT TERM AND RENEWAL

A. Permits for Garden Plots and Corral Areas shall be valid for one calendar year and are then subject to the renewal requirements of this Code. A Permittee shall make active use of the Premises (whether a garden plot or a corral) within two years from the date of issuance of the initial Permit and its first renewal. Permittee's failure to utilize the Premises within said two-year time period shall be cause for termination and non-renewal of the Permit. Any failure by the Permittee to actively utilize the Premises during any two-year period following issuance of any Permit renewal shall be cause to terminate the Permit.

B. Permits, other than the additional Permits authorized under Section 706 B 2 above, may be renewed on each subsequent anniversary date from which the Permit was initially issued, contingent upon:

1. A request by the Permittee for Permit renewal by filing a Renewal Application with the Department and validation by the Department that the Permittee is in full compliance with the requirements of the Permit(s), this Code, and other applicable Nation or federal law;
2. Updating of all information on the most recent permit application and Permit; and
3. Payment of the annual renewal fee(s) due and owing for the Permit(s) in the Permittee's possession. Annual renewal fees shall be \$25 for each Permit issued.

C. Upon finding that a Permittee is eligible for renewal of his/her Permit(s) and has satisfied all renewal requirements, the Department shall issue a Certificate of Renewal for each Permit the Permittee is eligible to renew. Each Certificate of Renewal shall be effective for one (1) calendar year from the date the Permit was renewed. The Department shall send a written notice to each Permittee 60 calendar days prior to the expiration of a Permit, advising the Permittee of the Permit's expiration date and the requirements and procedure for renewal.

Section 709. IMPROVEMENTS TO PERMITTED PREMISES

A. A Permittee shall obtain written approval from the Department prior to constructing or placing any improvements (including any subdividing of the Premises) or buildings of any kind on the Premises. Unless otherwise provided herein, all improvements or construction on the Premises shall be at the expense of the Permittee,

shall be constructed in a good workmanlike manner and shall adhere to all construction specifications, building restrictions, and zoning regulations as may be adopted by the Nation.

B. The Permittee shall have thirty (30) calendar days from the date of expiration or termination of the Permit to remove all improvements from the Premises unless otherwise agreed to by the Department. Any such improvements or construction not removed within the thirty (30) calendar day period shall become the property of the Nation and shall be subject to disposition by the Nation without obligation or responsibility to the Permittee or any other person or entity. The Nation may bill and require Permittee to pay all costs incurred by the Nation in removing all such improvements.

C. Any clearing, leveling, construction or removal of improvements, or any other development of any kind which is done without the prior written consent of the Department, as evidenced by a valid Permit issued in accordance with this Code, is done at the Permittee's own risk and expense. Furthermore, if the Department does not subsequently approve said development, the Permittee shall be required to immediately remove or correct said development and shall restore the Premises to its' original state, at the Permittee's expense.

Section 710. REQUIREMENTS AND PROHIBITIONS

A. The Permittee shall not use the Premises for any purpose other than that allowed by this Code and as specified in the Permit.

B. No Permittee shall utilize the Nation's lands beyond the geographical boundaries of the Premises designated in the Permit.

C. The Premises shall not be used by any person or persons other than the Permittee and his or her spouse and children without the express written authorization of the Council, following recommendation by the Department.

D. No garbage, rubbish, or waste materials of any kind (including junk and abandoned vehicles, appliances, scrap metal, trash of any kind, etc.) shall be disposed of, accumulated or maintained by the Permittee on or near the Premises. Garbage, rubbish, or waste materials may be placed in a container located on the Premises if such container is kept closed at all times, except when necessary to allow the garbage, refuse, or rubbish to be deposited in or taken from the container. All garbage/trash containers shall be located in one area on the Premises, which shall be screened from public view to the satisfaction of the Department. All garbage, rubbish and waste materials shall be disposed of not less than once weekly. If cleanup of garbage, rubbish or waste water by the Nation becomes necessary, the cost associated with such cleanup shall be paid for by the Permittee. If the Department determines that any Permittee is in violation of this Section 710 D, the Department shall notify the Permittee that all such garbage, rubbish and waste materials must be removed by Permittee from the premises immediately. Any

failure of the Permittee to remove all such materials within thirty (30) days following said Notice shall be cause for immediate termination of the Permit as provided in this Code.

E. The Permittee shall not burn or bury, or cause to be burned or buried, any garbage, refuse or rubbish on or near the Premises.

F. The Permittee shall not use the Premises, or allow the Premises to be used, for any unlawful conduct or purpose including, but not limited to, the manufacturer or sale of illegal drugs or intoxicating liquors or beverages in violation of Nation or federal law.

G. The Permittee shall not perform, or cause to be performed, any acts or practices which may constitute a Nuisance or disturbance to the peace and quiet enjoyment of other Permittees and/or residents in the general area.

H. The Permittee shall control all weeds and brush occurring within the Premises. Control shall be accomplished through the use of herbicides, mechanical means of tillage practices, at or before the period of propagation. Control shall give indication of a reduced weed or brush population. Burning of weeds is subject to prior written approval by the Department.

I. The Permittee shall, at all times during the term of the Permit and at the Permittee's sole cost and expense, keep and maintain the Premises in a clean, sanitary, neat and attractive condition presenting a pleasant appearance. The Premises, including all structures, and other improvements erected and placed on the Premises, shall be kept in good order and repair by the Permittee. The Permittee shall construct, maintain, and repair all fences and corrals associated with the Permit.

J. Any irrigation borders, ditches, pipe, valves and other improvements associated with the Permit and serving the Premises must be maintained in good working order by the Permittee at Permittee's expense. Irrigation canals and side slopes of canals are to be protected from Livestock and Poultry at all times. Failure to maintain these structures in good working ordering and/or failure to protect said areas from Livestock and Poultry shall be grounds for termination of a Permit.

Section 711. SUB-PERMITTS

A. Should a Permittee need to move away from the lands of the Nation in order to complete education or training, perform military service, obtain extended medical treatment, take a job, or for any other reason deemed appropriate by the Department, the Permittee may designate that the Premises be used by another eligible Tribal Member, or upon no designation, to another Tribal Member recommended by the Department under a Sub-Permit. Any such Sub-Permittee shall be responsible for utilizing the Premises in accordance with the requirements of this Code and the original Permit or the Sub-Permit may be immediately terminated as provided in this Code. If a Sub-Permittee's Sub-Permit is terminated, the Department shall make recommendation to the Council for action designating another eligible Sub-Permittee to use the applicable

Premises under the same obligations and requirements as the original Sub-Permittee or that the Premises be returned to the inventory of the Nation for permitting to another eligible Permittee.

B. Upon a Permittee's return to the lands of the Nation, the Permittee may request from the Department that the Sub-Permittee return the Premises to the Permittee's use and control, but only after the Sub-Permittee makes arrangements to harvest the product or produce of the then current growing season in relation to a Garden Plot, or relocate Livestock in relation to a Corral Area, but in either instance, no longer than six months from the date of the requested return of the Premises. The Council, following recommendation of the Department, shall approve all transfers or designations of Sub-Permits allowed under to the above-referenced Sub-Permittee requirements.

Section 712. INHERITANCE

A. Upon the death of a Permittee, his or her devisee (named in a valid will) may request that the Department transfer the Permit to the devisee, provided such devisee is a Tribal Member and is otherwise eligible to obtain a Permit, and further provided that the Permit is specifically referenced in the deceased Permittee's will. The devisee shall have 45 days from the death of the Permittee to notify the Department in writing of devisee's request for a transfer of the Permit and inheritance and transfer of the Permit shall then be subject to confirmation in accordance with the probate code of the Nation. The Council may, after completion of probate proceedings in the Tribal Court and upon the recommendation of the Department as to the permit eligibility of the devisee, approve a transfer of the Permit to the devisee. Should there be no will or the devisee is otherwise not eligible to receive a Permit, then the Permit shall immediately terminate and the Permitted Premises of the deceased Permittee shall be open to permit application under the procedures of this Code. The members of the deceased Permittee's immediate family – spouse and children only – shall have preference in the granting of a new Permit for the Permitted Premises.

B. No Tribal Member under sixteen (16) years of age, who has been identified as a devisee or an heir to receive a Premises, is eligible to receive such Premises. In such situations, the Premises shall be returned to the inventory of the Nation to be permitted to another eligible Tribal Member. No Tribal Member between sixteen (16) and eighteen (18) years of age, who has been identified as a devisee or an heir to receive a Premises, is eligible to receive such Premises unless the parent, guardian or other relative of the minor Tribal Member is willing to undertake and meet the responsibilities and requirements of a Permittee in relation to the Premises until the Tribal Member reaches eighteen (18) years of age. When the minor Tribal Member reaches eighteen (18) years of age, the Council may, after hearing the recommendation of the Department as to the eligibility of the newly turned eighteen (18) year old Tribal Member, approve the transfer of the Premises to such Tribal Member.

Section 713. VIOLATIONS, INVESTIGATION AND TERMINATION

A. If a Permittee fails to use a Garden Plot or Corral Area in accordance with the terms of this Code or in accordance with any other requirements as set forth in a

Permit, his or her Permit may be terminated by the Council after recommendation from the Department. In making a final decision concerning a recommended termination, the Council shall give notice to the Permittee and allow the Permittee to address the Council in relation to the potential termination.

B. To determine whether a Permittee is failing to use a Garden Plot or Corral Area in accordance with the terms of this Code or in accordance with any other requirements as set forth in a Permit, the Department, either on its own, or at the request of the Department or the Council, shall conduct an investigation into the matter. The Department shall have the right at any reasonable time during the term of a Permit to enter the Premises, or any part thereof, to inspect the property and other improvements erected and placed thereon and to gather the information needed to make findings consistent with the purposes of this Code.

C. Following investigation, the Department shall reduce its findings to writing and shall take action in terms of a making a recommendation to the Council consistent with the Department's findings. The Department's recommendation may be based upon, but not limited to, the following:

1. The Garden Plot or the Corral Area has been abandoned;
2. The Permittee is physically unfit to properly utilize the Garden Plot or Corral Area;
3. The Garden Plot or Corral Area is being used illegally or improperly;
4. The Permittee is allowing someone other than his or her spouse and children to substantially use the Garden Plot or Corral Area, thereby circumventing the letter or spirit of the requirements of this Code;
5. The Permittee improperly transferred his Permit to another person;
or
6. Any other violation of this Code, the Permit, any other law of the Nation, or applicable federal law.

D. Should the Department find that a Permittee is not in compliance with applicable legal and/or Permit requirements, the Department shall issue a Letter of Deficiency, sent certified mail, return receipt requested, to the Permittee informing the Permittee:

1. Of the violations the Department has identified in relation to a Permit(s);
2. That the Permittee has thirty (30) calendar days from the receipt of the Letter of Deficiency to correct the violations;
3. That the Permit is suspended until the violations are corrected; and
4. That upon conclusion of the thirty (30) calendar days and where all the violations have not been corrected, the Permit(s) will be terminated and the Garden Plot and/or the Corral Area will be returned to the inventory of the Nation.

E. In the event a Permittee loses a Permit due to violations, the Permittee shall not be eligible to receive another Land Use Permit for at least one (1) year from the latter of: 1) the date the Permit was terminated; or 2) the elimination of the violations, whichever occurs later. The Permittee shall eliminate all violations before another Permit may be issued to such Permittee.

F. Upon the termination of a Permit, the Permittee shall peaceably and without legal process deliver up the Premises in good condition, usual wear and Acts of God excepted. In the event a Permittee fails to deliver up the Premises upon termination of a Permit as provided herein, the Department, at the direction of the Department and/or the Council, shall have the right to take immediate physical possession of the Premises and to physically remove the Permittee from the Premises without court process.

G. Upon termination of a Permit, the Permittee shall have no further rights or interests hereunder in or to the Premises or any part thereof, and the Department may re-enter and take possession of the Premises and all buildings and improvements thereon, and may remove the Permittee and all persons claiming use rights under the Permit from the Premises. A refusal of the Permittee to vacate the Premises after proper notice as described herein may subject the Permittee to criminal and/or civil trespass charges under the laws of the Nation. All remedies herein conferred upon the Nation shall be deemed cumulative of each other and of all other remedies available to the Nation at law or in equity and no one remedy shall be deemed exclusive of any other remedy.

Section 714. SOVEREIGN IMMUNITY

Nothing contained herein shall be construed to effect or be deemed a waiver of the sovereign immunity of the Yavapai-Apache Nation.

Section 715. EFFECTIVE DATE

This Code is effective as of the date of its approval by the Tribal Council in accordance with Tribal Council Resolution No. _____.

YAVAPAI-APACHE NATION
2400 Datsi Street
Camp Verde, Arizona 86322

REVOCABLE LAND USE PERMIT – GARDEN PLOTS AND CORRALS

Land Use Permit No. _____

The Yavapai-Apache Nation (“Nation”), a federally recognized Indian Tribe whose principal place of business is 2400 Datsi Street Camp Verde, Arizona 86322, hereby authorizes and permits _____, whose physical address is _____, to use certain lands of the Nation as described herein, for the purposes and according to the Terms and Conditions set out in this Land Use Permit (“Land Use Permit” or “Permit”). This Permit is issued this, ____ day of _____, 20__.

RECITALS:

The Nation, is authorized “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” under authority of Article V (e) of the Constitution of the Yavapai-Apache Nation.

The Yavapai-Apache Nation Tribal Council, acting by Resolution No. _____, adopted the “Yavapai-Apache Nation Land Use Code - Garden Plots and Corral Areas” (the “Code”), and the Code governs the assignment to and use by tribal members of land within the Nation’s reservation for Garden Plots and Corrals under the Code.

This Permit is issued subject to the following Terms and Conditions:

1. PERMITTEE INFORMATION

- (a) **Name:**
- (b) **Physical Address:**
- (c) **Mailing Address:**
- (d) **Phone Number:**
- (e) **Email Address:**

2. LOCATION OF PERMITTED PREMISES:

In accordance with the Code, the Nation hereby grants this Land Use Permit to PERMITTEE (s) and authorizes PERMITTEE to enter upon, occupy and use that certain parcel of land and all improvements thereon, if any, located at Lot No. _____, measuring approximately [Check One] __ 40’ x 40’ if a Garden Plot or __ 50’ x 150’ if a Corral, as shown and outlined in red on *Exhibit A* attached to and made a part of this Permit, and hereinafter referred to as the “Premises”. The Permitted Premises is identified within the Nation’s Inventory of Garden Plots and Corrals as follows: _____

3. PURPOSE OF PERMIT:

This Permit grants PERMITTEE a revocable permission to the exclusive use and occupancy of the Premises for the following limited use(s) [check one]:

(a) Garden Plot: _____

(b) Corral: _____. The maximum number and type of Livestock and/or Poultry allowed to be maintained on the Premises is:

4. TERM AND PERMIT FEE:

The Term of this Permit shall be one year from the date of its issuance. This Permit shall be effective beginning _____, 20__ and shall end on _____, 20__ (“End Date”) and shall otherwise terminate upon the occurrence of either of the following events, whichever occurs first: (a) upon the End Date; or (b) the date that the NATION revokes and terminates the Permit. This Permit is subject to an annual Permit Fee of \$25.00 per year, due at the time of issuance of the Permit and annually on the anniversary date of the Permit.

5. GARDEN PLOT/CORRAL – PRE-EXISTING USES

In accordance with Sections 705 D and 707 G of the Code, Garden Plots and/or Corrals which were in authorized use by the PERMITTEE on or before the date of the adoption of the Code may not be subject to the size limitations imposed by the Code. In accordance with the Code, the NATION has determined that the Garden Plot and/or Corral specified in this Permit is entitled to exceed the Code’s size limitations as follows:

- (a) The size of the Permitted Garden Plot or Corral shall be: _____
- (b) As provided under Section 3(b) above, the maximum number of Livestock and/or Poultry authorized under this Permit shall be: _____

All other provisions of the Code and/or terms and conditions contained herein shall apply without modification.

6. GENERAL PERMIT CONDITIONS:

The following General Conditions, all of which are further specified in the Code are called to the particular attention of the PERMITTEE:

- (a) PERMITTEE shall commence and continue active use of the Premises within a reasonable time after issuance of this Permit. Failure to utilize the Premises within a reasonable time after issuance of the Permit shall be cause to terminate the Permit.
- (b) This Permit is a temporary revocable authorization for the use of land and does not confer any ownership or other property rights.
- (c) Any use rights and privileges granted under this Permit are granted only to the PERMITTEE, are non-transferable and automatically revert in their entirety to the NATION upon termination of this Permit.
- (d) This Permit places a limit on the number and/or type of Livestock or Poultry permitted under this Permit based upon the size and location of the corral.
- (e) All Livestock or Poultry permitted hereunder must be owned by the PERMITTEE and proof of ownership is required. Maintaining Livestock and/or

Poultry on the Premises in a number greater than that approved under subsection 3 (b) above, or maintaining Livestock and/or Poultry not owned by PERMITTEE on the Premises shall be cause for revocation of the Permit.

- (f) Corrals are "feed-only". PERMITTEE is responsible to ensure adequate feed and water is provided to all Livestock and/or Poultry.
- (g) Any use of the Premises by the PERMITTEE (s) not designated above, or which extends beyond the geographical boundaries defined under *Exhibit A*, or the use of the Premises by any other person or persons without the express written authorization of the NATION shall be cause for immediate termination of this Permit.
- (h) Livestock and Poultry are prohibited within garden plot permits and are only permitted if PERMITTEE(s) has received a corral permit under Section 3 above. PERMITTEE (s) shall keep all Livestock and Poultry authorized by this Permit on the Premises and shall not permit any animals to wander off of the Premises unless that animal(s) is restrained and is under the direct supervision and control of the PERMITTEE (s).
- (i) Where the keeping of Livestock and/or Poultry authorized under this Permit becomes or constitutes a Nuisance, the NATION, in its complete discretion, may require a reduction in the number and/or removal of the Livestock and/or Poultry. The NATION shall provide notice to PERMITTEE and allow ten (10) days for PERMITTEE to correct the Nuisance. In exceptional cases, such as a diseased animal, the NATION may require immediate removal of the Livestock and/or Poultry in question.

7. MODIFICATIONS

No waiver, alteration, or modification of any of the provisions of this Permit shall be binding unless in writing and signed by a duly authorized representative of NATION and PERMITTEE.

8. TERMINATION:

The NATION may terminate this Permit in accordance with the provisions of the Code.

9. UNLAWFUL CONDUCT:

PERMITTEE (S) AGREE THAT IT WILL NOT USE OR PERMIT TO BE USED BY ANY PERSON ANY PART OF the Premises for any unlawful conduct or purpose including, but not limited to, the manufacture or sale of illegal drugs or intoxicating liquors or beverages in violation of federal or Nation's law.

10. INSPECTION:

The NATION or its authorized representatives shall have the right at any reasonable times during the term of this Permit to enter upon the Premises, or any part thereof, to inspect the property and other improvements erected and placed thereon in accordance with the requirements of this Permit or any other applicable regulations, laws, codes, or ordinances.

11. CODE CONTROLS

The Terms and Conditions of this Permit are derived from the Code and the Code shall in all respects govern the validity and administration of all Terms and Conditions stated herein. The Terms and Conditions of this Permit shall be deemed to include all provisions of the Code and the Code is incorporated into this Permit by this reference.

12. OWNERSHIP OF LIVESTOCK AND POULTRY

By accepting this Permit and signing below, the Permittee acknowledges and represents that the livestock and poultry identified above in this Permit are owned by the Permittee as required under Section 707 (A) of the Code.

13. PERMITTEES REPRESENTATIONS AND ASSURANCES

By signing this Permit the PERMITTEE hereby makes the following representations and assurances:

- (a) PERMITTEE acknowledges that a copy of the Code is attached to this Permit and that PERMITTEE has received the same and is fully aware of the requirements of the Code and this Permit;
- (b) The PERMITTEE resides within ___ miles of the Nation's Lands;
- (c) The PERMITTEE will abide by all the terms of the Code as well as the terms and conditions of this Permit.

PERMIT ISSUED BY THE NATION AT ITS MIDDLE VERDE RESERVATION AS FOLLOWS:

NATION

DATED:

YAVAPAI-APACHE NATION

By: Thomas Beauty
Thomas Beauty, Tribal Chairman

PERMITTEE

DATED:

By: Scott Cary

APPROVED AS TO FORM AND CONTENT

DATED:

YAVAPAI-APACHE NATION
OFFICE OF THE ATTORNEY GENERAL

By: Scott Cary