

# CONSTITUTION OF THE KICKAPOO TRADITIONAL TRIBE OF TEXAS

## PREAMBLE

We, the members of the Texas Band of Kickapoo, by virtue of our sovereign rights as an Indian Tribe and pursuant to the authorities conferred by the Indian Reorganization Act of June 18, 1934, (48 Stat. 984), and Public Law 97-429, do hereby organize as a Tribe separate and apart from the Kickapoo Tribe of Oklahoma for the well-being of the Band and its members, to direct and control our own affairs, to protect and develop our land and resources for ourselves and our children, and to ensure the political integrity and cultural identity of the Band, and for these purposes do adopt this Constitution for the Texas Band of Kickapoo, henceforth to be known as the Kickapoo Traditional Tribe of Texas.

## ARTICLE I - JURISDICTION

The jurisdiction of the Kickapoo Traditional Tribe of Texas, hereinafter referred to as the Tribe, shall extend to the extent permitted by federal law, to all lands placed in trust for the Tribe pursuant to the Public Law 97-429, known as the Kickapoo Village, to all additional lands which may be acquired by the United States and held in trust for the Tribe, and to all other lands over which the Tribe may exercise jurisdiction under federal law.

## ARTICLE II - MEMBERSHIP

**Sec. 1.** The membership of the Kickapoo Traditional Tribe of Texas shall consist of the following persons:

- (a) All persons of Kickapoo Indian blood whose names appear on the official roll of the Texas Band of Kickapoo dated November 8, 1987, and to those enrolled through November 8, 1988; and
- (b) All children born to a tribal member who are at least one-fourth (1/4) degree Kickapoo Indian blood.

**Sec. 2.** From and after the adoption of this Constitution, persons who are members of other federally recognized Indian Tribes who are at least 1/4 degree Kickapoo Indian blood may apply for membership in the Tribe provided:

- 1) they have relinquished their membership in the other Tribe;
- 2) they have resided within the jurisdiction of the Tribe as defined in Article I for three (3) years and
- 3) the application for membership is approved by the Membership Committee.

**Sec. 3.** No person shall be a member of the Tribe who is enrolled or recognized as a member in any other tribe, unless he or she relinquishes membership in such other tribe pending enrollment with the Kickapoo Traditional Tribe of Texas by submitting to the Tribe a conditional relinquishment form properly executed. Upon acceptance of enrollment in the Kickapoo Traditional Tribe of Texas, the member shall provide evidence that his or her name has been stricken from the rolls of such other Tribe.

**Sec. 4.** The Traditional Council shall have the power to prescribe rules and regulations by ordinance not inconsistent with this Article governing all matters pertaining to membership.

**Sec. 5.** Within a reasonable time after the adoption of the Constitution, the Traditional Council shall appoint a Membership Committee composed of three tribal members who shall serve four (4) year terms, except no Committee member shall serve more than two (2) consecutive terms. The Membership Committee shall act on all applications for membership and other issues relating to membership. Decisions of the Membership Committee may be appealed to the Traditional Council which shall render final decisions. Persons appealing to the Traditional Council on membership matters shall be entitled to a hearing after proper notice. Members of the Membership Committee may be removed only through the recall procedure set out in Article VI, Sec. 4.

## **ARTICLE III - GOVERNING BODY**

**Sec. 1.** The governing body of the Tribe shall be the Traditional Council which shall be composed of five (5) adult members of the Tribe meeting the qualifications set forth in Article V and elected at large by secret ballot of the qualified voters of the Tribe.

**Sec. 2.** The Traditional Council shall select one of its male members as Chairman, and shall select a Secretary and Treasurer from among its members.

**Sec. 3. Traditional Council Meetings**

(a)Quorum. Three (3) members of the Traditional Council shall constitute a quorum of that body. No enactment of the Traditional Council will be valid in the absence of a quorum.

(b)Regular Meetings. Regular meetings of the Traditional Council shall be held quarterly unless otherwise designated by the Chairman with concurrence of the Traditional Council, provided that notice shall be given to the membership of the Tribe at least thirty (30) days in advance specifying the date, time and place of the meeting and provided that at least two regular meetings shall be held at the Kickapoo Village.

(c)Special Meetings. Special meetings of the Traditional Council may be called by the Chairman at his discretion, except that special meetings shall be called by the Chairman within fifteen (15) days of a written request of a majority of the Traditional Council members. Upon refusal by the Chairman to call a special meeting within fifteen (15) days upon a written request of a majority of the Traditional Council, any member of the Traditional Council may exercise such authority.

(d) Annual General Membership Meeting. There shall be an annual general meeting of the tribal membership called by the Chairman of the Traditional Council to be held the third Saturday of November. The Chairman of the Traditional Council shall present a report to the membership of the activity of the Traditional Council of the past year, and shall outline proposed plans and activities for the coming year. Notice of the Annual General Membership Meeting shall be given by the Secretary of the Traditional Council at least thirty (30) days in advance.

(e) Special General Membership Meetings. Special General Membership meetings may be called by the Chairman of the Traditional Council provided that notice of such meeting shall be given at least fourteen (14) days prior to such meeting. Upon receipt of a valid petition signed by at least 100 eligible voters of the Tribe, the Chairman shall call a Special General Membership meeting within forty-five (45) days of receipt of the petition.

## **ARTICLE IV - DUTIES OF OFFICERS**

### **Sec. 1. Chairman.**

The Chairman of the Traditional Council shall preside over all meetings of the Traditional Council and the Annual General Membership Meeting and shall have general responsibility for the business of the Tribe and shall perform all duties delegated to him by the Traditional Council. In the absence of the Chairman, an acting Chairman may be selected by a majority of the Traditional Council.

### **Sec. 2. Secretary.**

The Secretary of the Traditional Council shall keep an accurate record of all proceedings and enactments of the Traditional Council, and shall file copies with the Tribal office as public records and shall perform such other duties as may be directed by the Traditional Council. All official records of the Secretary shall be open to public inspection during normal business hours in the Secretary or Secretary designee's presence.

### **Sec. 3. Treasurer.**

The Treasurer of the Traditional Council shall accept, receive, preserve and safeguard all funds and assets of the Tribe from any source and keep an accurate account thereof; and shall make disbursements of funds only in accordance with properly executed resolutions of the Traditional Council. The Treasurer shall keep all funds entrusted to his care in special bank accounts and shall file a bond with the Secretary of the Traditional Council in an amount satisfactory to the Traditional Council; the cost of such bond shall be paid by the Tribe. The records and accounts of the Tribe shall be open for public inspection during normal business hours in the presence of the Treasurer or his designee.

## **ARTICLE V - ELECTIONS**

**Sec. 1.A Regular Elections.**

Elections shall be held every two (2) years on the third Saturday in November with the members being selected to fill the positions with terms expiring that year on the Traditional Council. Following the first election conducted under this Constitution all terms of office shall be for four (4) years or until successors are duly elected and installed. Members of the Traditional Council shall be selected by secret ballot.

**Sec. 2. Special Elections.**

In the event a special election is required by any provision of this Constitution, it shall be called by the Election Board and be governed by the Election Ordinance. All special elections shall be held at the earliest possible time during the period October through April, provided at least thirty (30) days notice is given.

**Sec. 3. Eligible Voters.**

Each tribal member as defined in Article II of this Constitution shall have the right to vote in any tribal election, provided such member: 1) is at least eighteen (18) years of age at the time of such election; and 2) has resided within the jurisdiction of the Tribe as defined in Article I for at least three (3) years at the time of the election. Residency shall be determined by a voter registration procedure to be set forth in the Election Ordinance.

**Sec. 4. Election Board and Ordinance.**

(a)The Traditional Council shall appoint an Election Board consisting of three tribal members who shall administer and supervise all tribal elections. The Election Board shall resolve all matters pertaining to qualifications of prospective candidates, secret balloting, filing procedures, election disputes, and all other matters pertaining to or arising from tribal elections. The Election Board shall call and conduct all tribal elections in accordance with a tribal Election Ordinance. Members of the Election Board shall serve four (4) year terms, except no Board member may serve more than two (2) consecutive terms. The Election Board shall select a Chairman and Secretary from among the Board members. Members of the Election Board may be removed only through the recall procedure set out in Article VI, Section 4, except that if the Election Board refuses to call any election required by this Constitution, the Board members forfeit their position and the Traditional Council may appoint new members. Members of the Traditional Council may not be appointed to the Election Board.

(b)All tribal elections shall be conducted in accordance with an Election Ordinance enacted by the Traditional Council consistent with this Constitution. Such ordinance shall provide procedures for all aspects of elections, and shall also provide for the conduct of initiative, recall, removal, and referendum elections, and a uniform petitioning procedure. Notice of all regular and special elections and meetings shall be posted in at least three (3) public places within the Kickapoo Village.

**Sec. 5. Qualifications of Candidates.**

Any person who desires to become a candidate for election or appointment to Traditional Council shall meet the qualifications set forth below:

- (a) must be a tribal member as defined in Article II of this Constitution, and must have been a member for the three (3) years immediately preceding the election in which office is sought;
- (b) must be at least thirty-five (35) years of age;
- (c) must not have been convicted of a felony in the United States or a similar offense in Mexico by a final judgment of any court of competent jurisdiction, must not have intentionally harmed another tribal member with a dangerous weapon and must not have converted tribal funds or property to his or her personal use; and
- (d) must reside within the jurisdiction of the Tribe as defined in Article I for the three (3) years immediately preceding the election in which office is sought.

**Sec. 6. First Election.**

The first election shall be called by the Election Board for the third Saturday in November, 1991. Until a Traditional council is installed following the first election, the tribal members designated below shall constitute the Traditional Council, and may exercise all powers conferred by this Constitution.

Paul Garza, AKA Makateonenodua

Juan B. Gonzales, AKA Kechemo

Adolfo Anico, AKA Pemosaaaua

Pepe Trevino, AKA Pepisidia

Vicente Lopez, AKA Chakapahthohah

For the first election the two members of the Traditional Council receiving the fewest number of votes shall serve for two (2) year terms; the remaining members shall serve for four year terms. Thereafter all members of the Traditional Council shall serve four (4) year terms. In the event of a tie vote among three or more Council members with the lowest number of votes, after the Chairman is elected, the Election Board shall supervise the drawing of lots among those remaining members with tie votes to determine those members who shall serve two (2) year terms.

**Sec. 7. Installation of Traditional Council.**

All duly elected members of the Traditional Council shall take office within seven (7) days following the election.

**Sec. 8. Compensation.**

The Traditional Council may by unanimous vote prescribe compensation for members of the Traditional Council as it deems advisable from available funds.

## **ARTICLE VI - VACANCIES, REMOVAL, FORFEITURE, RECALL**

### **Sec. 1. Vacancies.**

If a member of the Traditional Council is removed, recalled, resigns, forfeits office, or the office otherwise becomes vacant, the Traditional Council shall appoint a person who meeting the qualifications for election to office to serve the remainder of that term, except if more than two (2) years remain in the term, a special election shall be held to fill the position.

### **Sec. 2. Removal.**

The Traditional Council may by majority vote remove any member for neglect of duty or gross misconduct. Before any vote for removal is taken, the member shall be given a written statement of the charges against him at least thirty (30) days before the date of the meeting at which the vote is scheduled, and an opportunity to appear and answer all charges at such designated meeting. The decision of the Traditional Council shall be final and any removed council member shall not be returned to office for a period of at least six years.

### **Sec. 3. Recall.**

Upon receipt of a valid petition signed by at least one hundred (100) eligible voters of the Tribe demanding recall of a member or members of the Traditional Council, Election Board, Membership Committee or Appeals Board, the Election Board, the Election Board shall call a special election within forty-five (45) days. No Council member or other tribal official may be recalled unless at least thirty percent (30%) of the eligible voters of the Tribe vote in the special election, and a majority of those voting cast their ballot in favor of recall. Recall of a Council member which has been which has been submitted to the voters and rejected shall not be considered again for at least twelve (12) months. Only one official shall be considered for recall in any given election.

## **ARTICLE VII - POWERS OF TRADITIONAL COUNCIL**

All powers of the Kickapoo Traditional Tribe of Texas, including but not limited to those powers conferred by section 16 of the Act of June 18, 1934 (25 U.S.C. 465), shall be exercised by the

Traditional Council subject only to limitations imposed by the laws or Constitution of the United States, including but not limited to the following powers:

- (a) To negotiate with the Federal, State, and local governments;
- (b) To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior as long as such approval is required;
- (c) To prevent the sale, disposition, lease, or encumbrance by any person or entity other than by the Traditional Council as provided in this section, of tribal lands, interest in lands, or other tribal assets without the consent of the tribe;
- (d) To advise the Secretary of the Interior with regard to all appropriation estimates or Federal projects for the benefit of the Kickapoo Traditional Tribe of Texas;
- (e) To purchase, take by gift or bequest, or otherwise, own, hold, manage, operate, and dispose of property real and personal including the power to purchase restricted Indian land;
- (f) To lease and make assignments of tribal land in accordance with the law;
- (g) To exercise powers necessary to the conduct of business, including entering into contracts and agreements and borrowing money;
- (h) To manage and regulate all tribal economic affairs and activities;
- (i) To appropriate funds;
- (j) To safeguard the peace, safety, welfare and political integrity of the Tribe by enacting appropriate resolutions or ordinances for this purpose;
- (k) To levy taxes and license fees;
- (l) To exclude unauthorized persons from land within the jurisdiction of the Tribe.
- (m) To determine and regulate tribal membership;
- (n) To regulate and maintain law and order on lands within the Tribe's jurisdiction;
- (o) To provide for the administration of justice by establishing tribal courts;
- (p) To condemn lands for public purposes;
- (q) To regulate the use and disposition of property;
- (r) To charter and regulate subordinate organizations and cooperative associations;
- (s) To regulate the inheritance of property, including trust and restricted property, to the extent authorized by law;
- (t) To regulate domestic relations and other internal affairs of the Tribe;
- (u) To appoint guardians;
- (v) To encourage arts and crafts;
- (w) To regulate tribal elections;
- (x) To regulate the conduct of the Traditional Council itself and of tribal meetings.

## **Sec. 2. Committees and Boards.**

The Traditional Council may appoint other officials, committees or boards and delegate responsibilities thereto as may be required from time to time. The duties, responsibilities and compensation for such officials, committee members or board members shall be set by the Traditional Council.

## **Sec. 3. Future Powers.**

The Traditional Council may exercise such further powers as may in the future be conferred by federal law.

## **ARTICLE VIII - TRIBAL ENACTMENTS**

Legislative enactments of the Traditional Council shall be embodied in ordinances, and decisions of the Traditional Council of limited or temporary duration shall be embodied in resolutions, and all such ordinances and resolutions shall be available for public inspection.

## **ARTICLE IX - POPULAR PARTICIPATION IN GOVERNMENT**

### **Sec. 1. Initiative.**

Upon receipt of a valid petition signed by at least one hundred (100) eligible voters of the Tribe, it shall be the duty of the Chairman of the Traditional Council to call within forty-five (45) days an initiative election for the purpose of presenting to all qualified voters such issue requested by the initiative, except that no initiative election may be held for the purpose of voting on whether to distribute any tribal funds as per capita payments. The initiative vote shall be conclusive and binding on the Traditional Council provided that at least thirty percent (30%) of the eligible voters shall vote in the election. No initiative shall serve to abrogate, modify or amend any properly approved contract or agreement.

### **Sec. 2. Referendum.**

Upon receipt of a valid petition signed by one hundred (100) eligible voters of the Tribe, or upon request of a majority of the Traditional Council, any enacted or proposed ordinance or resolution or other action of the Traditional Council shall be submitted to a popular referendum in an election called by the Chairman and held within forty-five (45) days of the receipt of the petition or request. The referendum vote shall be conclusive and binding on the Traditional Council provided that at least thirty percent (30%) of eligible voters shall vote in the election. No referendum shall serve to abrogate, modify or amend any properly approved contract or agreement.

**Sec. 3.** Whenever possible, any initiative or referendum election shall be held in conjunction with any scheduled regular or special Traditional Council Meeting or General Membership Meeting.



**Sec. 4.** No initiative or referendum which has been submitted to the members and rejected shall be considered again for at least twelve (12) months.

## **ARTICLE X - RIGHTS OF MEMBERS AND OTHER PERSONS**

**Sec. 1.** All members of the Kickapoo Traditional Tribe of Texas residing within the jurisdiction of the Tribe as defined in Article I shall enjoy equal rights to life, liberty, industrial pursuits, and the economic resources and activities of the Tribe.

**Sec. 2.** The Kickapoo Traditional Tribe of Texas, in exercising its powers of self-government shall not:

- (a) Make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances;
- (b) Violate the right of the people to be secure in their persons, houses, papers and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;
- (c) Subject any person for the same offense to be twice put in jeopardy;
- (d) Compel any person in any criminal case to be a witness against himself;
- (e) Take any private property for a public use without just compensation;
- (f) Deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have the assistance of counsel for his defense;
- (g) Require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of one (1) year or a fine of \$5,000.00 or both, or such other terms or penalties as may be authorized by federal law;
- (h) Deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law;
- (i) Pass any bill of attainder or ex post facto law; or;
- (j) Deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six persons.

## **ARTICLE XI - APPEALS BOARD**

In the absence of the establishment by the Traditional Council of a court system or other permanent dispute resolution mechanism, an Appeals Board shall be established within a reasonable time after the adoption and approval by the Secretary of the Interior of the constitution. The Appeals Board shall consist of three tribal members appointed by the Traditional Council for four (4) year terms, except no board member may serve more than

two (2) consecutive terms. The board must satisfy the same eligibility requirements as candidates for the Traditional Council. The Appeals Board shall only hear appeals from final decisions of the Election Board, from final decisions of the Traditional Council regarding removal of council members, and disputes concerning forfeiture of office or the calling of regular or special meetings of the Traditional Council or the General Membership. The Appeals Board may only decide issues of procedure as set forth in the Constitution or ordinances, and issues of fact. Decisions of the Appeals Board shall be majority vote and shall be final. The Appeals Board shall adopt appropriate rules and regulations concerning procedures for appeals, including at a minimum the right to adequate notice, the right to a hearing and to be represented at the hearing, and the opportunity to present evidence and to hear evidence against him or her. Board members shall be independent and impartial, and shall not sign any petitions for initiatives, referendums, recall or the calling of meetings. Members of the Board may only be removed through the recall procedures set out in Article VI, Sec. 4. Members of the Traditional Council may not be appointed to the Appeals Board. Upon the establishment of a court system and/or other dispute resolution mechanism with authority to hear the appeals and disputes covered by this Article, the Appeals Board shall be disbanded.

## **ARTICLE XII - AMENDMENTS**

Amendments to this Constitution may be proposed by a valid petition signed by at least one hundred (150) qualified voters, or by a majority vote of the Traditional Council. Upon receipt of a proposed amendment, a special election shall be called by the Secretary of the Interior pursuant to applicable regulations.

If in such election at least thirty percent (30%) of eligible voters of the Tribe vote in the election, and the amendment is adopted by a majority vote, it shall be in effect upon approval by the Secretary of the Interior.

## **ARTICLE XIII - SAVINGS CLAUSE**

All ordinances and resolutions heretofore enacted by the Traditional Council shall remain in full force and effect except to the extent they are inconsistent with this Constitution.

## **ARTICLE XIV - SEVERABILITY**

If any part of this Constitution is held by a Federal Court of competent jurisdiction to be invalid or contrary to the U.S. Constitution or federal law, the remainder of the constitution shall remain in full force and effect.

## **ARTICLE XV - ADOPTION**

This Constitution, when adopted by a majority vote of the qualified voters of the Kickapoo Traditional Tribe of Texas voting in an election called for that purpose by the Secretary of the Interior, and conducted pursuant to federal regulations, provided, that at least thirty percent (30%) of those entitled to vote cast ballots in that election, shall become effective when approved by the Secretary of the Interior.

## **ARTICLE XVI - CERTIFICATION OF RESULTS OF ELECTION**

Pursuant to an order issued by John Geary, Acting Deputy to the Assistant Secretary of the Interior, Indian Affairs, on April 21, 1989, the Constitution of the Kickapoo Traditional Tribe of Texas, was submitted for adoption to the qualified voters of the Kickapoo Traditional Tribe of Texas and was on May 27, 1989 duly adopted by a vote of 132 for, and 15 against, in an election in which at least thirty percent (30%) of the 198 persons 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.

Signature not readable

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Chairman, Election Board

J. Suzanne Chaney

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Election Board Member

Signature not readable

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Election Board Member

Margarita Salazar

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Election Board Member

Estella Gonzalez

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Date: 5-27-89

## CERTIFICATE OF APPROVAL

I, Hazel E. Elbert, Deputy to the Assistant Secretary - Indian Affairs (Tribal Services), by virtue of the authority granted to the Secretary of the Interior by the Act of June 18, 1934 (48 Stat. 984), as amended, and delegated to me by 209 D.M.8.3., do hereby approve the Constitution of the Kickapoo Traditional tribe of Texas that was duly adopted on May 27, 1989; provided, that nothing in this approval shall be construed as authorizing any action under the constitution that would be contrary to Federal Law.

Hazel E. Elbert \_\_\_\_\_

Deputy to the Assistant Secretary - Indian Affairs (Tribal Services)

Washington, D.C.

Date: Jul 11 1989