

# Kaw Nation



**Location:** North central Oklahoma

**Population** 3,126

**Date of Constitution** 2011

## PREAMBLE

We, the People of the Southwind, known as the Kaw Nation established pursuant to the Oklahoma Indian Welfare Act of June 26, 1936 (49 Stat. 1967), whose inherent sovereignty has existed since time immemorial, trusting in our Creator to provide guidance in all our affairs, in order to provide for the common health, safety, and general welfare, to protect, secure, and advance the rights, culture, and traditions of the Kaw Indian people, do hereby ordain and establish this Constitution for the government of the Kaw people, which shall supersede all previous constitutions and any constitutional resolutions.

## ARTICLE I: JURISDICTION

Section 1. Consistent with the government-to-government relationship the Kaw Nation has with the United States of America, the authority and jurisdiction of the Kaw Nation shall extend to all territory within the boundaries now known as Kaw Land and to all lands that may be acquired for the Kaw Nation by the United States or which the Kaw Nation may acquire for itself, and to all Indian country of the Kaw Nation and its citizens now or hereinafter defined by Federal law, which shall include all natural resources, including but not limited to all water and air space rights associated therewith.

Section 2. The Kaw Nation may exercise its authority and jurisdiction outside the territory described above to the fullest extent not prohibited by Federal law.

## ARTICLE II: BILL OF RIGHTS

Section 1. Civil Rights. The Kaw Nation, in exercising the powers of self-government, shall not:

A. Freedom of Religion, Speech, Press, Assembly, and Petition. Make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or of the right of the people peaceably to assemble, and to petition for a redress of grievances;

B. Searches and Seizures. 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 things to be seized;

C. Double Jeopardy. Subject any person for the same offense to be twice put in jeopardy;

- D. Self Incrimination. Compel any person in any criminal case to be a witness against himself or herself;
- E. Eminent Domain. Take any private property for public use without just compensation;
- F. Rights of the Accused. 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 or her, to have a compulsory process for obtaining witnesses in his or her favor, and, at his or her own expense, to have the assistance of counsel for his or her defense;
- G. Cruel and Unusual Punishment. Require excessive bail, impose excessive fines, or inflict cruel and unusual punishments;
- H. Equal Protection and Due Process. 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. Habeas Corpus. Suspend the writ of habeas corpus under the laws of the Kaw Nation except when in cases of rebellion, insurrection, invasion, or when public safety requires it;
- J. Bills of Attainder and Ex Post Facto Laws. Pass any legislation directed against a designated person, pronouncing him or her guilty of an alleged crime without trial or conviction, or any ex post facto law, which retroactively changes the legality or consequences of a fact or act after the occurrence of that fact or commission of the act;
- K. Trial by Jury. 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 (6) Kaw Nation citizens; and
- L. Right to Bear Arms. Make or enforce any law unreasonably infringing upon the right of tribal citizens to keep and bear arms.

Section 2. Citizens Retain Rights. The enumeration of rights in this Constitution shall not be construed to deny or disparage other rights retained by citizens of the Kaw Nation.

Section 3. Access to Tribal Records. Subject to individual citizens' of the Kaw Nation or employees' of the Kaw Nation rights to privacy and any express limitations contained in this Constitution, and the laws of the United States, citizens of the Kaw Nation shall be provided access to review and copy the records of the Kaw Nation including, but not limited to: budgets, financial reports of expenditures, and minutes of all meetings of the Tribal Council or other subdivisions of the government; provided that such access shall be provided during normal office hours. The General Council shall pass legislation recommended by the Tribal Council to ensure reasonable access to these records which shall not be inconsistent with this provision.

### ARTICLE III: CITIZENSHIP

Section 1. Qualifications. The citizens of the Kaw Nation shall include:

- A. All persons enrolled as of the date of ratification of this Constitution as citizens of the Kaw Nation who met the citizenship requirements prescribed by the Kaw Nation.

B. All persons who are descendants by blood of an original Kaw Indian allottee or allottees whose name or names appear on the 1902 Kaw Indian Allotment Roll, except the following persons:

1. Those persons otherwise entitled to enrollment who, as adults, elect to be enrolled with another tribe, provided that nothing in this Constitution shall prohibit citizens of the Kaw Nation from claiming descendency in other tribes.

2. Those persons otherwise entitled to enrollment who, as adults, have received any payments in land or money by virtue of having been enrolled with some other tribe.

C. No persons, otherwise eligible for enrollment, shall be denied enrollment because they have purchased or received through inheritance land or money of another tribe or because they are considered by another tribe as a member of that tribe by virtue of their purchase or inheritance of such land or money or by the circumstances of their birth without affirmative application for membership by or on behalf of such persons.

Section 2. Authority of the Tribal Council. The Tribal Council shall have the authority to establish by law:

A. The procedures for enrollment of persons eligible for citizenship pursuant to Section 1(B).

B. The procedures for disenrollment of a citizen of the Kaw Nation pursuant to Article IV, Section 3, (C3).

Section 3. Judicial Review. Any enrollment decision by the Tribal Council of the Kaw Nation shall be subject to judicial review in the courts of the Kaw Nation upon the filing of an appeal.

#### ARTICLE IV: GENERAL COUNCIL

Section 1. The General Council shall consist of all citizens of the Kaw Nation, not adjudged mentally incompetent by a court of competent jurisdiction, and who are eighteen (18) years of age or older.

Section 2. General Council Meetings. The Chair shall preside over all meetings of the General Council. In the absence of the Chair, the Vice-Chair shall preside over said meetings. In the absence of the Chair and Vice-Chair, the General Council shall select a Chair pro tempore for said meeting from the citizens of the Kaw Nation present.

A. Matters of business for the General Council shall be decided by a majority vote of Kaw Nation citizens present. A quorum of the General Council shall consist of twenty-five (25) citizens of the General Council. A quorum must be maintained to conduct any business

B. Special meetings of the General Council may be held upon the call of the Chair, in his or her discretion, and shall be called by the Chair at the written request of a majority of the Tribal Council, or of thirty (30) citizens of the General Council eligible to vote. Special meetings shall be called to begin not less than twenty (20) calendar days nor more than forty (40) calendar days after receiving the written request. Should the Chair fail to set the date for the special meeting within fourteen (14) calendar days of the written request, any member of the Tribal Council shall thereafter call the special meeting to be held no more than forty (40) calendar days after the written request was received.

C. Not less than ten (10) calendar days' public notice of special meetings shall be given as provided for by law. Such notice shall state the specific purpose or purposes of said meetings, and whether other business may be conducted.

D. Quarterly meetings of the General Council shall be held on the second (2nd) Sunday of each calendar quarter, provided that the Tribal Council may, upon public notice at least thirty (30) calendar days prior to such date, reschedule said meeting to an appropriate time not more than thirty (30) calendar days after the regular meeting date. Public notice shall be given by the elected Secretary of the Kaw Nation or the Attorney General in their inaction for all General Council meetings.

E. All meetings of the General Council shall be held at an accessible place designated by the Tribal Council within the limits of the territorial jurisdiction of the Kaw Nation. All meetings of the General Council shall be conducted using Robert's Rules of Order as a general guide.

F. Public notice as used in paragraph (C) and (D) of this section means that a notice stating the time, date, place, and purpose of any General Council Meeting is mailed to citizens of the Kaw Nation at their last known address, as shown on the citizenship roll. Additional resources that are available and reasonable may be used to give the Kaw Nation citizens notice of said meetings as provided for by legislation.

G. All votes on substantive matters of the General Council, as determined by General Council members present, shall be by secret ballot.

Section 3. General Council Powers. The General Council shall be the supreme legislative body of the Kaw Nation.

A. The General Council is empowered to assist the Tribal Council and may, at its discretion, issue broad policy directives, which shall be dutifully pursued by the Tribal Council. Such policy directives may include but not be limited to tribal strategic planning goals in the areas of housing, health care, education, historic preservation, and economic development.

B. The General Council shall set the compensation of officials elected under Article IX of this Constitution based upon the recommendations of a salary commission consisting of (5) five people appointed by the Tribal Council and confirmed individually by the General Council. Said compensation shall be set only at the first meeting of each election year of the Chair, and any change in compensation so set shall take effect on Inauguration Day.

C. The five Tribal Council actions described under subparagraphs 1, 2, 3, 4 and 5 of this paragraph shall have no force and shall be of no effect unless and until they have been approved by a majority vote of the General Council at a properly called meeting.

1. The sale, mortgage (except purchase money mortgages on the land being purchased), or other alienation of tribally owned lands. Leases entered into pursuant to Federal statute, revocable permits, and assignments under tribal law where legal or trust title of the Kaw Nation remains unaffected are not alienations for purposes of this subsection.

2. The establishment, enactment, amendment, or repeal of legislation respecting tribal elections, the Attorney General, access to tribal records, the Tribal Council rules of procedures, salaries for elected officials, recall, or impeachment of elected officials.

3. The criteria and grounds for disenrollment of a citizen of the Kaw Nation without his or her consent.

4. The exercise of the tribal power of eminent domain.

5. The General Council has the right to approve the appointment of judicial officers except in a case as required by Article VIII, Section 4B.

If the General Council fails to act on actions under paragraph C of this section at a properly called meeting for any reason, its approval shall be deemed to have been given if, and only if, a statement or notice that such action would be considered was included in the public notice of the meeting.

#### ARTICLE V: TRIBAL COUNCIL

Section 1. A Tribal Council shall be elected by secret ballot pursuant to an Election Ordinance approved by the General Council. The officers of the Kaw Nation in office at the time of ratification of this Constitution shall continue in office until their successors are duly elected and installed.

A. The Tribal Council shall be composed of the following officers: Chair, Vice-Chair, Secretary, and four (4) Council Members. Candidates shall meet the requirements for election outlined in Article IX of this Constitution.

B. Regular meetings of the Tribal Council shall be held the second (2nd) Saturday of each month at a Kaw Tribal Building in Kaw City, or within the limits of the territorial jurisdiction of the Kaw Nation designated by the Tribal Council, and notice to the members of the Tribal Council shall be mailed to them at least five (5) calendar days prior to the date of each meeting, unless otherwise provided by resolution.

C. If a meeting outlined in paragraph B of this article is changed, notice shall be posted five (5) days prior to the original date including a rescheduled date at Kaw Tribal entities as defined by law.

D. Special meetings of the Tribal Council may be called by the Chair at his or her discretion, and shall be called by the Chair at the written request of a majority of the Tribal Council. Proper notice of special meetings shall be given, as provided for by law. The purpose for the special meeting must be clearly stated in the notice and the Tribal Council shall not at a special meeting consider any other business. Failure of the Chair to call such meeting shall be subject to Article XI, Section 2.

E. The Tribal Council shall provide for its own rules of procedure. These rules of procedure shall be presented to the General Council for approval within ninety (90) days after the ratification of this Constitution. Any amendments to these rules of procedure shall be presented to the General Council for its approval.

F. Matters of business for the Tribal Council shall be decided by a majority vote of the members present. A quorum of the Tribal Council shall consist of five (5) members. A quorum must be maintained to conduct any business.

G. No Tribal Council member shall vote or participate on any matter coming before the Tribal Council in which the member has a personal interest or in which the member stands to gain or lose financially, unless the benefit or loss is shared by other Kaw Nation citizens in similar circumstances.

H. The Tribal Council shall document its meetings and all actions taken, including listing all votes and how each member voted. Said records shall be available to the citizens of the Kaw Nation as provided by law.

Section 2. Tribal Council Powers. The Tribal Council shall serve as the legislative body of the Kaw Nation and shall have the authority to act in and on all matters and subjects upon which the Kaw Nation is empowered to act, now or in the future, including, but not limited to, the following:

A. To represent the Kaw Nation and act in all matters that concern the health, peace, safety, and general welfare of the Kaw Nation and all persons within its territory, and to make decisions not inconsistent with this Constitution.

B. To negotiate and make contracts with Federal, tribal, state, and local governments, and with any individual, firm, or company.

I. To employ legal counsel to represent the Tribal Council.

J. To veto the sale, disposition, lease, or encumbrance of tribal lands, or interest in tribal lands, tribal funds, or other tribal assets which may be authorized by any agency or employee of the Federal government.

K. To regulate and provide for permits, leases, and assignments of land for business, home site, and other purposes, and generally provide for proper use and development of all tribal lands, natural resources, and other tribal property.

L. To appoint Tribal Committees, appoint commissions, governmental boards, and boards of Kaw Nation owned entities. A majority of appointees of each such committee, commission, and board shall be Kaw Nation citizens.

M. To establish and prescribe rules for governing tribal courts and tribal law enforcement agencies, and to provide for the maintenance of law and order in territory under Kaw Nation jurisdiction as defined by Article I of this Constitution.

N. To protect and preserve the wildlife and natural resources of the Kaw Nation; to regulate hunting, fishing, and trapping in territory under Kaw Nation jurisdiction as defined by Article I of this Constitution.

O. To levy and collect taxes; to regulate the conduct of business; to charter public or private business, financial, and similar entities; and otherwise provide for the development of the economy in territory under Kaw Nation jurisdiction as defined by Article I of this Constitution,.

P. To properly fund all offices established by this Constitution

The foregoing enumeration of legislative powers shall not be construed to limit the powers of the Kaw Nation and in no way shall be deemed an abdication or forfeiture of the Kaw Nation's inherent attributes of sovereignty, and such powers may be exercised through the enactment of legislation by the General Council or Tribal Council.

Section 3. Legislative and Veto Process. All legislation must be in writing. All legislation that is approved by a majority vote of the members in attendance shall become effective, provided that the Chair shall only vote to break ties. If the Chair disapproves of passed legislation, the Chair shall voice such disapproval and submit such disapproval to the elected Secretary in writing within five (5) calendar days after it has passed, and the Secretary shall attach such written disapproval to the Tribal Council minutes without delay. After such disapproval, the resolution and minutes shall be presented to the General Council at its next meeting. If a compromise has not been reached by the elected officials, the General Council shall vote on the issue and its vote shall decide the approval or disapproval of the legislation.

#### ARTICLE VI: EXECUTIVE

Section 1. Executive Officers. The executive functions of the Kaw Nation shall be vested in the Chair, the Vice-Chair, and Secretary.

Section 2. Chair. It shall be the duty of the Chair to preside at all meetings of the General Council and the Tribal Council. The Chair shall have general supervision of the affairs of the General Council and Tribal Council and shall perform all duties pertaining to the office of Chair, including the authority to cause laws of the Kaw Nation to be faithfully executed and obeyed, and to carry out obligations entrusted to the office of Chair. The Chair may, in his or her discretion, delegate his or her functions, except as may be prohibited by law or by Section 3 of this article.

A. The Chair shall provide the Tribal Council and General Council with an annual written financial report and also provide such interim reports as the Tribal Council may direct. The Chair shall cause all persons authorized to handle funds of the Kaw Nation to be insured at the expense of the government of the Kaw Nation for a sum sufficient to protect the Kaw Nation from loss of such funds.

B. The Chair may hire employees who are necessary and appropriate to carry out the functions and duties of his or her office, as provided by law.

Section 3. Vice-Chair. The Vice-Chair shall perform the duties of the Chair in the event of his or her absence or incapacity. If the office of Chair shall become vacant, the Vice-Chair shall succeed to the office of Chair until a new Chair, who shall serve for the unexpired term, is properly elected and installed in office.

Section 4. Secretary. The Secretary shall be the recording officer of the General Council and Tribal Council and the custodian of its records, and shall perform the duties of Secretary during regular business hours in an office established at the Kaw Nation. The duties of the Secretary are:

- A. To keep a record of all the proceedings of the Kaw Nation and to maintain record books in which all ordinances, special rules of order, standing rules, minutes, committee reports, commission reports, and board reports, and amendments are entered.
- B. To keep the official roll of the citizens of the Kaw Nation as provided by law.
- C. To make the minutes and records available for inspection, review, and copying upon request by any citizen of the Kaw Nation, unless declared confidential by legislation.
- D. To provide such notice of meetings as required by this Constitution or legislation of the Kaw Nation.
- E. To maintain records regarding oaths of office, to attest to the signature of other governmental officers, and to certify as true, accurate, and complete copies of any records of the Kaw Nation filed in the Secretary's office.
- F. To prepare for Tribal Council and General Council meetings as outlined in the Tribal Council policies.
- G. In the absence of the Chair and Vice-Chair, to call a meeting to order and preside until the immediate election of a Chair pro tempore.

All papers, records, and effects of the Kaw Nation in the possession, custody, or control of the Secretary shall be delivered to the Attorney General of the Kaw Nation upon the expiration or termination of the Secretary's term of office.

#### ARTICLE VII: ATTORNEY GENERAL

Attorney General. There shall be an office of Attorney General. The Attorney General shall be a member in good standing of the bar of the Supreme Court of the United States, or of any United States Court of Appeals, or of any District Court of the United States, or a member in good standing of the bar of the highest court of any state of the United States and need not be a citizen of the Kaw Nation. The Attorney General shall represent the Kaw Nation in all criminal cases in the courts of the Kaw Nation, and in all civil actions wherein the Kaw Nation is a party, and shall provide an opinion as to the constitutionality of laws at the request of the Chair, Tribal Council, or General Council, and shall have such other duties as may be prescribed by legislation and approved by the General Council. When the Attorney General position is vacant the Tribal Council shall present three (3) candidates for Attorney General to the General Council who shall select one for a term of three (3) years. The Attorney General shall be authorized to designate such prosecutors and other assistants that are necessary to carry out the duties of the office, and the Attorney General may only be removed from office in accordance with Article XI, Section 3, of this Constitution.

#### ARTICLE VIII: JUDICIARY

Section 1. Establishment and Authority. The judicial power of the Kaw Nation shall be vested in one Supreme Court consisting of three (3) Justices and such inferior courts as may be established by tribal law.



Section 2. Jurisdiction. The Courts of the Kaw Nation shall be courts of general jurisdiction and shall further have jurisdiction in all cases arising under the Constitution, laws, and treaties of the Kaw Nation. The Supreme Court shall have original jurisdiction in such cases as may be provided by law, and shall have appellate jurisdiction in all other cases.

Section 3. Qualifications. All Justices, Judges, and Magistrates shall be members in good standing of the bar of the Supreme Court of the United States, or of any United States Court of Appeals, or of any District Court of the United States, or members in good standing of the bar of the highest court of any state of the United States and need not be a citizen of the Kaw Nation.

Section 4. Selection of Judicial Officers.

A. The Justices of the Supreme Court and Judges of inferior courts shall be selected by the Tribal Council and confirmed individually by the General Council. Magistrates of inferior courts shall be appointed by the Tribal Council and confirmed individually by the General Council for a term of two (2) years, and shall undertake such judicial functions as the Supreme Court may by rule provide.

B. Justices and Judges may be appointed by the Supreme Court to hear a specific case in which the regular Justices or Judges are otherwise disqualified under rules established by the Supreme Court.

C. All regular appointments shall occur in odd numbered years. A vacancy in a judicial office shall be filled in the same manner as a regular appointment with the replacement to serve the balance of the term of the vacated officer. Any Justice or Judge in office at ratification of this Constitution whose term ends in an even year shall have his or her term extended by one (1) year to meet this requirement. All future Justices or Judges shall serve in accordance with Section 5 of this article.

Section 5. Term of Office. The Justices and Judges of the Kaw Nation shall serve four (4) year terms beginning at the date of their confirmation in office and until their successor shall be duly confirmed and installed. At the expiration of his or her term of office, each Justice or Judge shall, at his or her option, be considered by the General Council for reconfirmation to a new term of office.

The Chief Justice of the Supreme Court shall employ and have supervisory authority over an administrative staff, who shall have general administrative duties in the judicial branch and follow the policies for employees of the Kaw Nation.

Section 6. Removal. Justices, Judges, and Magistrates of the Kaw Nation may be removed from office only by a majority of the other active Justices and Judges sitting together upon a showing of habitual neglect of the duties of office, oppression in office for personal gain or advantage, or conviction of, or plea of guilty or nolo contendere to, a felony or other crime involving moral turpitude. In no case may a judicial officer be removed from office because of his or her decision or vote in any case before the court.

Section 7. Judicial Review. The courts are hereby specifically authorized to review, in any case properly before them, the actions of the General Council, Tribal Council, or any officers, agents, or employees of the government of the Kaw Nation to determine whether those actions are prohibited by Federal law, this Constitution, or the laws of the Kaw Nation. If the action complained of is outside the authority of the entity that acted, or if proper authority is being exercised in a prohibited manner, the court may enter an injunction or other equitable relief or declare the action unconstitutional, illegal or void as justice may require.

#### ARTICLE IX: ELECTION

Section 1. The Tribal Council shall enact appropriate legislation of the Kaw Nation not inconsistent with the provisions of this Constitution that will govern the conduct of all elections. Said legislation prior to becoming effective must be approved by the General Council pursuant to Article IV of this Constitution.

Section 2. In order to become a candidate for or be a member of the Tribal Council, a person must:

- A. Be a member of the General Council not less than twenty-five (25) years of age on the date of the election; and
- B. Be one-thirty-second (1/32) degree or more of Kaw Indian blood; and
- C. Have earned a high school diploma or passed a General Educational Development (GED) test.

Section 3. Disqualifications for candidates

- D. No person may be a candidate for more than one (1) elected office at any election or hold more than one (1) elected office in the Kaw Nation at any one time.
- E. No person who shall have been convicted of a felony or any other crime involving moral turpitude under the laws of the Kaw Nation, the United States, any Indian tribe, band, or nation, or of any State, Territory, or Possession thereof, shall be eligible to hold any elective office within the Kaw Nation, unless such person has received a pardon therefor.

Section 4. Vacancies. A vacancy in the office of either an Executive Officer or a Tribal Council member, which results from death, resignation, forfeiture, removal, or recall shall be filled as follows:

- A. If fewer than eighteen (18) months remain in the term of office for the Executive Officer or Tribal Council member, an individual shall be elected to fill such vacant position at the next regular General Council meeting by a majority vote of the Kaw Nation citizens present and voting.
- B. If more than eighteen (18) months remain in the term of office for the Executive Officer or a Tribal Council member, a special election shall be held within three (3) months after the vacancy occurs.
- C. Any special election held under this Section shall be conducted using guidelines established by the Election Board not inconsistent with tribal legislation or this Constitution.

D. The Executive Officer or Tribal Council member taking office under the provisions of this Section shall serve until the term of office for the vacant office he or she is filling expires and their successor is duly elected and installed.

Section 5. All elections shall be by secret ballot. All citizens of the Kaw Nation shall be eligible to vote as provided by law.

Section 6. All elections shall be conducted by an Election Board pursuant to the laws of the Kaw Nation and this Constitution. The Election Board shall consist of five (5) members who shall be Kaw citizens. Members of the Election Board shall serve four (4) year staggered terms, and shall be nominated by the Tribal Council and approved individually by a majority of the Kaw Nation citizens present and voting.

Section 7. All persons elected in a General or Special Election shall be installed in office by the 4th Wednesday following an election at 12:00 noon.

Section 8. To maintain staggered terms of office, the election of the Chair, Secretary, and two (2) Tribal Council Members shall be separated by two (2) years from the election of the Vice-Chair and the other two (2) Tribal Council Members. All elected officials shall serve four (4) year terms except as provided for by Section 4 of this Article. All elected officials covered by this article shall be limited to two (2) consecutive full or partial terms of office, and shall not be eligible to seek any elective office in the Kaw Nation for a period of two (2) years after leaving office. Any official serving at the time of ratification shall not be ineligible on account of this section from serving, if re-elected, one additional term of office consecutive to the term being served at the time of ratification.

#### ARTICLE X: OATH

Section 1: All elected officers, the Attorney General, and Judicial Appointees shall, before entering upon the duties of their respective offices, take and subscribe to the following oath or affirmation: I, \_\_\_\_\_, do solemnly swear or affirm that I will preserve, protect and defend the Constitution and Laws of the Kaw Nation and the Constitution of the United States of America. I will perform the duties of my office with all honesty, integrity and sincerity. I will not allow my personal feelings toward any person or situation to determine my decision on any matter. I will uphold the best interests of the Kaw Nation. I will not knowingly receive directly or indirectly any money or valuable thing for performance or non-performance of any act or duty pertaining to my office other than the compensation allowed by law. These things, I faithfully promise myself and to each and every member of the Kaw Nation so help me God.

Section 2: The forgoing oath shall be administered by a Kaw Nation Justice or Judge. A signed copy of the oath shall be kept on file in the elected Secretary's office.

#### ARTICLE XI: RESIGNATION, RECALL, AND IMPEACHMENT

Section 1. Resignation. Any officer of the Executive Branch or any member of the Tribal Council may resign from his or her elected position by submitting written notice of resignation to the Chair who shall present it to the Tribal Council at the next meeting.. If the Chair resigns, then it shall be given to the Attorney General who shall present it to the Tribal Council at the next meeting. Such resignation is effective upon receipt by the Tribal Council, unless otherwise noted in the written notice.

Section 2. Recall. The citizens of the Kaw Nation shall have the right to recall the Executive Officers or any member of the Tribal Council by filing a recall petition with the Election Board. The petition must contain valid signatures of Kaw Nation citizens eligible to vote equal in number to at least sixty percent (60%) of the number of valid ballots cast in the most recent General Election for Chair. The Election Board shall verify petition signatures and approve or deny the petition within fifteen (15) calendar days of receipt. Once the petition is certified as valid and sufficient by at least three (3) members of the Election Board, an election shall be called by the Chair for the purpose of presenting to the General Council the subject of the recall. The recall vote shall be held within ninety (90) calendar days of the validation of the petition. A recall election shall not be held within ninety (90) calendar days preceding a regular General Election.

### Section 3. Impeachment.

A. An Executive Officer, any member of the Tribal Council, or the Attorney General may be subject to removal from office by a resolution of removal, which is not subject to a veto, signed by five (5) of the seven (7) members of the Tribal Council for:

1. Absence without proper excuse for three (3) consecutive meetings of the Tribal Council and/or General Council as defined by its rules of policies;
2. Conviction of (or a guilty or nolo contendere plea to) a felony under Federal, tribal, or state law, or conviction of (or a guilty or nolo contendere plea to) any other crime involving dishonesty or moral turpitude while in office;
3. Inability to fulfill the duties of the office due to mental or physical disability, to the extent of being incapable of exercising judgment about or attending to the business of office;
4. Gross misconduct or malfeasance in office;
5. Failure to take or pass a drug test(s) conducted by the Kaw Nation as prescribed in the Tribal Council policies; or
6. Failure to abide by the Kaw Nation Oath of Office.

B. At least ten (10) calendar days before the meeting of the General Council at which the vote for removal will be taken, the Executive Officer or Tribal Council member subject thereto shall be provided by the Attorney General (or the elected Secretary if the Attorney General is the subject of the action) with a written notice of General Council's scheduled vote on removal, which shall set forth with specificity the alleged grounds for removal. The Executive Officer or Tribal Council member subject to removal shall be provided with a reasonable opportunity to answer the charges at the public meeting of the General Council before any vote for removal is taken. An affirmative vote of two-thirds (2/3) of the members of General Council present shall be necessary for removal. The decision of the General Council shall be final.

## ARTICLE XII: INITIATIVE AND REFERENDUM

Section 1. The citizens of the Kaw Nation reserve unto themselves the power of initiative and referendum.

Section 2. Initiative. Any issue shall be submitted for an initiative election pursuant to this section upon receipt of a petition containing valid signatures of Kaw Nation citizens eligible to vote equal in number to at least forty percent (40%) of the number of valid ballots cast in the most recent General Election for Chair.

The petition shall be filed with the Election Board which shall determine its validity and sufficiency and whether its content fairly describes the subject of the initiative within ten (10) calendar days. Once the petition is certified as valid and sufficient by at least three (3) members of the Election Board, an election shall be called by the Chair for the purpose of presenting to the General Council the subject of the initiative. The initiative vote shall be held within sixty (60) days of the validation of the petition. The results of the initiative vote shall be conclusive and binding, provided that a majority of the votes cast are in favor of the initiative and at least two-thirds (2/3) of the eligible voters of the Kaw Nation shall have voted in the election. No initiative shall void, modify, or amend any properly approved contract.

Section 3. Referendum. Any enacted or proposed legislation or other action of the Tribal Council shall be submitted to a referendum vote pursuant to this section upon receipt of a petition containing valid signatures of Kaw Nation citizens eligible to vote equal in number to at least fifty percent (50%) of the number of valid ballots cast in the most recent General Election for Chair or upon written request of a majority of the Tribal Council.

The petition shall be filed with the Election Board which shall determine its validity and sufficiency and whether its content fairly describes the subject of the referendum within ten (10) calendar days. Once the petition is certified as valid and sufficient by at least three (3) members of the Election Board, an election shall be called by the Chair for the purpose of presenting to the General Council the subject of the referendum. The referendum vote shall be held within sixty (60) days of the validation of the petition. The results of the referendum vote shall be conclusive and binding, provided that a majority of the votes cast are in favor of the referendum and at least two-thirds (2/3) of the eligible voters of the Kaw Nation shall have voted in the election. No referendum shall void, modify, or amend any properly approved contract.

Section 4. Whenever reasonable, any initiative or referendum vote should be held in conjunction with any general or special election.

Section 5. No initiative or referendum that has been submitted to the citizens of the Kaw Nation and rejected shall be considered again until the next regularly scheduled General Election.

#### ARTICLE XIII: AMENDMENTS

This Constitution may be amended by a majority vote of the voters of the Kaw Nation voting in an election called for that purpose, provided that at least thirty percent (30%) of those eligible to vote shall cast ballots in such election.

Amendments to this Constitution may be proposed by a valid petition signed by at least thirty percent (30%) of the members of the General Council or by a majority vote of the Tribal Council. The Chair is without the power to veto a resolution that has passed the Tribal Council calling for a constitutional amendment.

#### ARTICLE XIV: SAVINGS CLAUSE

Subject to all provisions of this document except Article IX, Section 2C, pertaining to obtaining a high school diploma or GED, incumbent Tribal Council members shall continue to serve in their office until the next General Election for their respective seat held under this Constitution. All legislation heretofore adopted not in conflict with this Constitution shall continue in force unless and until they are duly modified or repealed.

#### ARTICLE XV: ADOPTION

This Constitution shall be ratified by a majority vote of the voters of the Kaw Nation voting in an election called for that purpose, provided that at least thirty percent (30%) of those eligible to vote shall cast their ballots.