

CONSTITUTION  
OF THE  
EASTERN SHAWNEE TRIBE  
OF  
OKLAHOMA

PREAMBLE

We, the Eastern Shawnee Indians of Oklahoma, whose inherent sovereignty has existed since historic times, and who therefore hold those inherent powers to self-government that have not been extinguished by Congress, wish to develop a stronger self-determination policy in order to advance socially and economically, and to take advantage of the Thomas-Rogers Oklahoma Indian Welfare Act of June 26, 1936 (49 Stat. 1967), do adopt the following constitution which shall supersede the Constitution and Bylaws of the Eastern Shawnee Tribe approved by the Assistant Secretary of the Interior on November 7, 1939.

ARTICLE I - NAME

The name of this nation shall be the "Eastern Shawnee Tribe of Oklahoma."

ARTICLE II - TERRITORY AND JURISDICTION

The unique relationship which the Eastern Shawnee Tribe has with the United States empowers the Tribe to have complete jurisdiction, subject to applicable Federal law, over the Eastern Shawnee lands, which are located in the north east section of the State of Oklahoma, and such other territory as may hereafter be added thereto.

ARTICLE III - MEMBERSHIP OF THE TRIBE

Section 1. The membership of the Eastern Shawnee Tribe of Oklahoma shall consist of the following persons:

- (a) All persons of Indian blood whose names appear on the official census roll of the Tribe as of January 1, 1938; or
- (b) All children born since the date of the said roll, both of whose parents are members of the Tribe; or
- (c) Any child born to a member of the Eastern Shawnee Tribe and a member of any other Indian tribe who chooses to affiliate with the Eastern Shawnee Tribe; or

- (d) Any child born to a member of the Eastern Shawnee Tribe and any other person, if such child is enrolled before attaining the age of five (5) years. Where no such enrollment is made, such person may be admitted to membership by the Eastern Shawnee General Council.

Section 2. The Business Committee shall have the power to prescribe rules and regulations, subject to Federal law, and final approval of the General Council covering future membership, including adoptions and the loss of membership.

#### ARTICLE IV - MEMBERSHIP OF THE GENERAL COUNCIL

Section 1. The supreme governing body of the Eastern Shawnee Tribe shall be the Eastern Shawnee General Council hereinafter referred to as the General Council. The membership of the General Council shall consist of all the members of the Eastern Shawnee Tribe, eighteen (18) years of age and older.

Section 2: The General Council shall have the power to:

- (a) Vote in all tribal elections;
- (b) Elect business committee members and officers;
- (c) Exercise the power of initiative and referendum;
- (d) Recall and remove elected tribal officials;
- (e) Amend this Constitution;
- (f) Make advisory recommendations to the Business Committee.

#### ARTICLE V - BILL OF RIGHTS

Nothing in this Constitution shall authorize or empower the governing body, while exercising its power of self-government, to:

- (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 punishment, 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, or both;
- (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 (6) persons.

## ARTICLE VI - ORGANIZATION OF GOVERNMENT

The government of the Eastern Shawnee Tribe shall be composed of three (3) separate and independent branches: The Executive, consisting of the Chief; the Legislative, consisting of the Eastern Shawnee Business Committee; and the Judicial, consisting of the Eastern Shawnee Judiciary.

## ARTICLE VII - EXECUTIVE BRANCH

Section 1. The executive power of the Eastern Shawnee Tribe shall be vested in the office of the Chief of the Eastern Shawnee Tribe. The Chief shall be elected by a majority of the votes cast by the qualified voters of the Tribe for a term of four (4) years.

Section 2. The Chief shall be the chief executive officer of the Eastern Shawnee Tribe and presiding officer of the General Council. The Chief shall oversee the implementation of all laws, ordinances, resolutions and rules made by the Business Committee. The Chief shall regularly report to the Business Committee concerning the affairs of the Eastern Shawnee Tribe and make recommendations to assist in the governing of the Eastern Shawnee Tribe.

Section 3. The Chief shall have veto power over all laws, ordinances and resolutions made by the Business Committee. The Chief shall have five (5) working days from date of presentation to him in which to approve or veto any law, ordinance or resolution passed by the Business Committee. If any law, ordinance or resolution presented to the Chief has not been acted upon within five (5) working days from presentation to him, such law, ordinance or resolution shall become law as if it had been signed by him. If vetoed it must be returned to the Business Committee, with a statement of the objections, for reconsideration. If after such reconsideration a unanimous vote of the Business Committee is reached it shall become a law. If no unanimous decision can be reached, the subject would go before the General Council as prescribed by Article XIV, Section 2.

#### ARTICLE VIII - LEGISLATIVE BRANCH

Section 1. Business Committee. The legislative powers of the Eastern Shawnee Tribe shall be vested in the Eastern Shawnee Business Committee. The Business Committee shall include the Second Chief, Secretary, Treasurer and three (3) Council persons

Section 2. Second Chief. The Second Chief shall preside over the Business Committee. The Second Chief shall perform such duties of the Chief, subject to the supervision of the Chief, as the Chief may from time to time delegate. The Second Chief shall be a member of the Business Committee with voting power only in case of a tie.

Section 3. Secretary. The Secretary shall make out the order of business for the Business Committee, assuring at least a public notice of such business at least ten (10) days prior to such meeting. The Secretary shall assure the correct recording of the proceedings of all meetings, and render a written report at the annual General Council meeting. The Secretary shall have custody of the records and all papers of the Business Committee. Such records and papers shall be open to inspection at any time during business hours, by any member of the tribe desiring to read such. The Secretary shall keep a correct list of all members of the Eastern Shawnee Tribe and of the Business Committee. The Secretary shall determine the validity of petitions submitted under Article XIV. The Secretary shall be a full voting member of the Business Committee.

Section 4. Treasurer. The Treasurer shall monitor the financial records maintained by the Tribe to insure compliance with the approved budgets. The Treasurer shall make reports to the Business Committee and General Council as deemed necessary by the Eastern Shawnee General Council. In the absence of the Second Chief the Treasurer shall preside over the Business Committee. Should the Second Chief be unable to serve as the acting Chief pro tem when required to do so, the Treasurer shall serve as acting Chief. The Treasurer shall be a full voting member of the Business Committee.

Section 5. Term of Office. At the first election held under this Constitution a system of staggered terms shall be established. At the first election under this Constitution the newly elected Chief and the person receiving the highest number of votes for First Business Committee Member shall serve for a term of four (4) years. The persons receiving the highest number of votes for Second Chief and Second Business Committee Member shall serve for a term of three (3) years. The persons receiving the highest number of votes for Treasurer and Third Business Committee Member shall serve for a term of two (2) years. The person receiving the highest number of votes for Secretary shall serve for a term of one (1) year. Thereafter, all terms of office shall be for four (4) years. Members shall hold office until their successors are duly elected and seated.

Section 6. Quorum. No business shall be transacted by the Business Committee unless a quorum is present. A quorum shall consist of four (4) members of the Business Committee.

Section 7. Voting. Voting on any ordinance or resolution or other enactment shall be by roll call and the Secretary shall record each vote.

Section 8. Conflict of Interest. Any Business Committee Member or tribal official who may have a direct personal or financial interest in any matter before the Eastern Shawnee Business Committee shall not vote on such matter.

#### ARTICLE IX - POWERS OF THE BUSINESS COMMITTEE

Section 1. The Eastern Shawnee Business Committee shall have all the legislative powers vested in the Eastern Shawnee Tribe and shall, subject to the express limitations contained in the Constitution and laws of the United States or in the Constitution of the Eastern Shawnee Tribe, have the following powers:

- (a) To allow suitable compensation for the officials, subject to availability of funds.
- (b) To make and use a common seal and alter the same at will.
- (c) To appoint such subordinate committees and agents as the business of the Tribe may require and to allow suitable compensation.
- (d) To enter into any obligations or contracts essential to the transaction of its ordinary affairs or for purposes above set forth.

- (e) To borrow money from any other governmental agency, lending institution, or from any member or association of members of the Tribe, and to use such funds directly for productive tribal enterprises.
- (f) To deposit tribal funds in a Federally Chartered Bank, which is a member of the Federal Depositor Insurance Corporation or in the Postal Savings Bank or with a bonded disbursing officer of the United States or any other as may be deemed appropriate.
- (g) To negotiate with the Federal, State or local governments and to advise or consult with the representatives of the Interior Department on all activities of the Department that may affect the Eastern Shawnee Tribe of Oklahoma.
- (h) To employ counsel for the protection and advancement of the rights of the Tribe and its members, subject to the approval of the Secretary of the Interior.
- (i) To prevent any disposition, lease, or encumbrance of tribal lands, interests in land, or other tribal assets.
- (j) To make assignments of tribal land to members of the Tribe, and to regulate the use and disposition of such assignments.
- (k) To appropriate available funds for public purposes of the Eastern Shawnee Tribe of Oklahoma.
- (l) To regulate the procedure and manner of holding tribal elections.
- (m) To regulate the procedure of the General Council and Business Committee and all other tribal committees and offices.
- (n) To protect and preserve the persons, property, natural resources, crafts and tradition of the Eastern Shawnee Tribe of Oklahoma.
- (o) To purchase, take by gift, bequest or otherwise, own, hold, manage, operate, and dispose of property of every description, real or personal, subject to the limitations of Section 2.
- (p) To issue bonds or other interest in tribal property in exchange for restricted Indian lands.

- (q) To protect all rights guaranteed to the Eastern Shawnee Tribe of Oklahoma by Treaty.
- (r) To delegate to subordinate bodies, committees, or officers, or to any cooperative association which is open to all members of the Tribe, any of the foregoing powers, reserving the right to review any actions taken by virtue of such delegated powers.
- (s) To exercise such further powers as may in the future be deemed necessary.
- (t) To promote, protect and provide for the public health, peace, education and general welfare of the Tribe and its members.
- (u) To adopt, approve and amend annual budgets and to authorize the expenditure of funds in accordance with these budgets.
- (v) To manage all tribal and economic affairs and enterprises.
- (w) To enact laws, ordinances and resolutions necessary or incidental to the exercise of its legislative powers.
- (x) To determine all terms and conditions of employment for all persons employed by the Tribe through the adoption of appropriate ordinances.

Section 2. The foregoing tribal powers shall be subject to the following limitations:

- (a) No tribal land or interest in land shall ever be mortgaged; no tribal land or interest in land shall ever be sold except in the exercise of the law of eminent domain or by majority vote of the General Council.
- (b) No tribal land or interest in land shall be leased for a period longer than ten (10) years, except that oil, gas or mineral leases may be made for longer periods when authorized by law.
- (c) Any lease, grazing permit, or timber sale contract covering tribal land shall provide that the person to whom such lease, permit, or contract is awarded must conform with regulations issued by the Secretary of the Interior under section 6 of the Act of June 18, 1934 (48 Stat. 984).

- (d) No assignment of future tribal income shall be made for more than (5) years in advance, except as security for a loan from the United States unless approved by a majority vote of the General Council.
- (e) In any attorney's contract hereafter executed by the Tribe, the choice of attorneys and the fixing of fees shall be subject to the approval of the Secretary of the Interior so long as such approval is required by Federal law.
- (f) No distribution of tribal property among the members of the Tribe shall be made, except out of the net profits of tribal enterprises after all debts then due have been paid, subject to applicable Federal laws.
- (g) Neither the Chief, members of the Business Committee, nor the Judge shall vote, select or participate as an official on any issue where there exists an apparent conflict of interest.

#### ARTICLE X - JUDICIAL BRANCH

Section 1. Until such time as the Business Committee determines that the Tribe is financially and otherwise prepared to maintain a separate Tribal Court, the judicial authority of the Tribe shall be exercised by the Court of Indian Offenses. The jurisdiction of the Court of Indian Offenses shall include, but not be limited to, criminal and civil jurisdiction, including settlement of tribal disputes and interpretation of this Constitution and tribal enactments.

Section 2. When the Business Committee determines that the Tribe is prepared to begin exercising its judicial authority, it shall notify the Court of Indian Offenses by resolution, transmitting the following:

- (a) a copy of the judicial ordinance;
- (b) a plan for establishing the Tribal Court; and
- (3) a time table and procedures for orderly transition of pending cases.

In line with the above provisions, the judicial authority of the Tribe shall, thereafter, be exercised by the Tribal Court. If, because of financial or other reasons, it is not appropriate for the Tribe to continue to maintain a separate Tribal Court, the Business Committee may restore jurisdiction to the Court of Indian Offenses.

Section 3. If the Business Committee determines that the Tribe shall maintain a separate Tribal Court, or courts, that court shall possess all of the judicial powers of the Tribe, including such powers that may, in the future, be granted to the Tribe by Federal law. The Business



Committee shall enact a judicial ordinance subject to approval by the Secretary of the Interior to provide for the Tribal Court to exercise judicial powers including those set forth in Section 1 of this Article. Other features of the Tribal Court are set forth below:

- (a) **Judicial Power.** The judicial power of the Eastern Shawnee Tribe shall be vested in the Eastern Shawnee Judiciary which shall consist of a Tribal Court consisting of three (3) Judges and such inferior courts as may be established by tribal law.
- (b) **Jurisdiction.** The tribal court shall exercise jurisdiction over all cases and controversies within the jurisdiction of the Tribe in law and equity, arising under this Constitution, the laws, ordinances and customs of the Eastern Shawnee Tribe.
- (c) **Qualifications of Judges.** The qualifications for the tribal judges shall be established by ordinance enacted by the Business Committee.
- (d) **The Judges of the Eastern Shawnee Tribe shall be selected by the Chief and confirmed by the Business Committee within thirty (30) days of such selection. If the Business Committee fails to confirm the Chief's selections, the Business Committee must within five (5) days state in writing their objections to the selection and make their recommendations.**
- (e) **The Judges of the Eastern Shawnee Tribe shall serve six (6) year terms beginning at the date of their confirmation in office and until their successor shall be duly confirmed and installed.**
- (f) **The Judges of the Eastern Shawnee Tribe may be removed from office in the same manner that tribal officials and Business Committee members may be removed from office. In no case may a Judge be removed from office because of his/her decision in any case before the court.**
- (g) **Compensation.** The Judges shall receive for his/her services compensation established by the Business Committee which shall not be diminished during his/her term of office.
- (h) **The judicial ordinance may include provisions for a Tribal Police Force.**

## ARTICLE XI - ELECTIONS

**Section 1. Voters.** Any member of the Eastern Shawnee Tribe who has reached the age of eighteen (18) years at the time of the election shall have the right to vote in tribal elections.