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**Resolution KT09-48**

**RESOLUTION**

**WHEREAS**, the Kickapoo Tribe in Kansas is organized in accordance with the provisions of the Indian Reorganization Act of June 18, 1934, (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 378), and

**WHEREAS**, the Kickapoo Tribe in Kansas is empowered by the Kickapoo Constitution and By Laws approved by the Secretary of the Interior on February 26, 1937, and

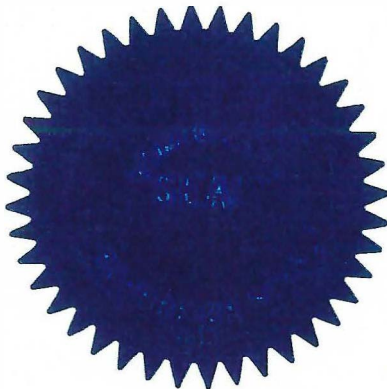
**WHEREAS**, the governing body of the Kickapoo Tribe in Kansas shall be the Kickapoo Tribal Council as authorized under the Kickapoo Constitution and By-Laws in Article III, Section 2, and

**WHEREAS**, the Tribal Council has reviewed a draft document in regard to ethics that would reinforce ethics for the Tribal Council, and

**NOW, THEREFORE BE IT RESOLVED**, that the Kickapoo Tribal Council takes action to approve said document of Tribal Council Ethics Code to include correction under Article 9, Standards of Conduct Section G, to strike alcohol; it was noted that the code can be repealed at any time.

**CERTIFICATION**

The foregoing Tribal Council Resolution was adopted by the Kickapoo Tribal Council in a Regular Session called for and by the Tribal Chairperson on this 13th day of November 2008, at which 6 members were present, constituting the required quorum, with 5 voting for, 0 against, and 0 abstaining, with the Chair not voting.



ATTEST:

  
Arlan D. Whitebird, Chairman

  
Michael D. Mattwaoshshe, Secretary

## TRIBAL COUNCIL CODE OF ETHICS

### I. Purpose of Kickapoo Tribal Council

The primary purpose of the Tribal Council is to uphold and defend the Constitution of the Kickapoo Tribe in Kansas and to promote the best interest of the Tribe as a whole.

### II. Authority of Kickapoo Tribal Council

This ordinance is adopted pursuant to the legislative authority granted by Article (V, Section 2, and Article V, Section (h), of the Constitution and Bylaws of the Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas, As Amended to October 10, 1980.

### III. Powers of the Kickapoo Tribal Council

Pursuant to the Constitution and Bylaws of the Kickapoo Tribe in Kansas, as amended in 1980, the Tribal Council of the Kickapoo Tribe shall exercise the following powers, subject to any limitations imposed by the statutes of the Constitution of the United States.

1. To negotiate with the federal, state, and local governments;
2. To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior;
3. To veto any sale, disposition, lease or encumbrance of tribal lands, interests in lands, or other assets of the Tribe;
4. To advise the Secretary of the Interior with regard to all appropriation estimates of Federal projects for the benefit of the Kickapoo Tribe prior to the submission of such estimates to the Bureau of the Budget and to Congress;
5. To make and enforce ordinances, which shall be subject to review by the Secretary of the Interior, providing for the manner or making, holding and revoking assignments of tribal lands or interests therein;
6. To provide for the levying of taxes and the appropriation of available tribal funds for public purposes of the Kickapoo Tribe;
7. To lease tribal land in accordance with law;
8. To regulate the procedure of the Council itself and other tribal agencies and of tribal meetings and elections;

9. to charter subordinate organizations for economic purposes and to delegate to such organizations, or to any subordinate boards, committees or officials of the Tribe, any of the foregoing powers, reserving the right to review any action taken by virtue of such delegated power.
10. To govern the conduct of Indians on the reservation; and to provide for the maintenance of law and order and the administration of justice by establishing appropriate courts on the reservation and defining their duties and powers. All codes and ordinances enacted by the Tribal Council pursuant to this authority shall be subject to the approval of the Secretary of the Interior.

#### IV. Major Responsibilities & Duties Tribal Council Members

- A. The Constitution of the Kickapoo Tribe in Kansas authorizes the Tribal Council as the law-making and policy making body of the Tribe, and is expected to make sound Tribal laws and policies in a consistent and fair manner. There are four (4) major responsibilities of the Tribal Council. They are:
  1. To be held accountable;
  2. To be held to high ethical standards;
  3. To ensure nondiscrimination exists in Tribal services and programs by formulating and implementing consistent and fair standards and practices;
  4. To identify goals of the Tribal membership and to seek and allocate resources to meet those goals.
- B. Duties of Officers (As described in Constitution of Kickapoo Tribe in Kansas)
  1. Chairman of the Tribal Council: The Chairman shall preside over all meetings of the Tribal Council and of the Tribe, perform the usual duties of a Chairman, and exercise authority delegated to him by the Tribal Council.
  2. Vice-Chairman of the Tribal Council: The Vice-Chairman shall assist the Chairman when called upon to do so and in the absence of the Chairman, he/she shall preside. When so presiding, he/she shall have all the rights, privileges and duties as well as the responsibilities of the Chairman.
  3. Secretary of the Tribal Council: The Secretary shall conduct all Tribal correspondence and shall keep accurate records of all matters transacted at Tribal Council meetings, which record shall

be available to the Superintendent of the jurisdiction and the Commissioner of Indian Affairs, upon request.

4. **Treasurer of the Tribal Council:** The Treasurer shall accept, receive, receipt for, preserve and safeguard all funds in the care of the Council. He/she shall deposit all funds in such depository as the Tribal Council shall direct and shall make and preserve a faithful record of such funds and shall report on all receipts and expenditures and the amount and nature of all funds in his/her possession and custody, at such times as are requested by the Tribal Council. He shall not pay out or otherwise disburse any funds in his possession or care except in accordance with resolution duly passed by the Tribal Council. When, in the opinion of the Tribal Council or the Commissioner of Indian Affairs, sufficient funds have accumulated to the Tribal Council Treasury to make it advisable to bond the Treasurer, he/she be required to give a bond satisfactory to the Tribal Council and the Commissioner of Indian Affairs.

## V. Definitions

1. **Closed Session:** Shall be defined as a session of the Kickapoo Tribal Council which is not open to the general public, but, instead, is limited to Kickapoo Tribal members, their families, tribal employees, contractors and consultants, and other persons invited by the Tribal Council to attend. Closed Tribal Council sessions shall be commenced and adjourned by motion duly passed and shall not be recorded, except by note of the Tribal Council. No final or official Tribal Council action shall be taken in closed session.
2. **Conflict of Interest:** Shall be defined as an action taken by a member of the Tribal Council which is in conflict with the Tribal Council member's obligation to take actions in the best interests of the Kickapoo Tribe in Kansas or the tribal membership. In most cases a conflict of interest arises because a Tribal Council member has taken action that potentially may be in self or personal interest rather than in the best interests of the Tribe or their tribal membership as a whole and not individual members or groups. A conflict of interest does not arise when Tribal Council members disagree about a course of action or decision to take on a particular issue, and a Tribal Council member holds a sincere belief on the issue that differs from other Tribal Council members.
3. **Executive Session:** Shall be defined as a session of the Tribal Council which is closed to all persons except Tribal Council

members, necessary staff as designated by the Tribal Council, and express invites by the Tribal Council. Executive Tribal Council sessions shall be commenced and adjourned by motion and duly passed and shall not be recorded, except by note of the Tribal Council. No final or official Tribal Council action shall be taken in executive session.

4. **Investigator:** Any individual or ad hoc committee selected by the Tribal Council to conduct an investigation into the allegations made against a member of the Tribal Council. This person(s) may be from within the Tribal Council, tribal organization, or a person from outside the organization. Selection is strictly at the discretion of the Tribal Council.
5. **Immediate Family:** Shall be defined as Mother, Father, Son, Daughter, Husband, Wife, Brother, Sister, Uncle, Aunt Grandparent, (See personnel policy) or any other person in a similar relationship, and any person living in the Tribal Council member's household.
6. **Malfeasance:** Shall be defined as wrongdoing or misconduct by a public official Commission of an act that is found unlawful by the Kickapoo Nation District Court.
7. **Misfeasance:** Shall be defined as doing a lawful act in an unlawful manner so that there is an infringement upon the rights of others as found/determined by the Kickapoo Nation District Court.
8. **Misconduct:** Shall be defined as any criminal, infamous, dishonest, immoral, or notoriously disgraceful act on the part of the Tribal Council member.
9. **Theft:** Shall be defined as the act of stealing. Taking something without permission or payment.
10. **Fraud:** Shall be defined as intentional deception to cause a person to give up property or some lawful right. Deceit, trickery, or cheating. Something said or done to deceive.
11. **Confidentiality:** Shall be defined as the assurance of secrecy. A Tribal Council member shall not disclose confidential information obtained by reason of their position as a Council member, nor use such information for their economic benefit or the economic benefit of any other person.

12. **Personal Interest:** Shall be defined as an action taken by a Tribal Council member which is intended to benefit the Tribal Council member and/or his/her immediate family and/or associate rather than the Kickapoo Tribe or tribal membership as a whole. A Tribal Council member may act out of personal interest when he or she acts on a matter involving a general class of the tribal membership if the Tribal Council member's action was intended to benefit the member or hi/her immediate family. Personal interest may be determined by an objective review of all the circumstances surrounding, and factors relevant to, an action taken by a Tribal Council member.
13. **Retaliation:** At no time shall an accused member of the Tribal Council threaten or imply retaliatory actions against any individuals who may be part of the allegations against him.
14. **Sanction:** The official actions taken against a Tribal Council member as a result of unethical behavior. Such sanctions can include, but are not limited to, censure, reprimand, suspension. (See Constitution)
15. **Special Advisor:** Shall be defined as any person or entity, other than a Tribal Council ad hoc committee, appointed by the Tribal Council to investigate an allegation of unethical conduct against a Tribal Council member. The Tribal Council may contract with an outside entity or person to be special advisor.
16. **Tribal Council:** Shall be defined as the duly elected chairman of the Kickapoo Tribal Council. In any matter under this ordinance where the Tribal Council Chairman is the Tribal member alleged to have engaged in unethical conduct, the Vice-Chairman shall act in the capacity of Chairman under this ordinance. If both the Chairman and the Vice-Chairman are accused of such conduct, the Secretary shall act in the capacity of Chairman under this ordinance, or the remaining Tribal Council members shall approve one of their members to act in the capacity of the Chairman for purposes of this ordinance.
17. **Unethical Conduct:** Shall be defined as that conduct that is not conforming to the standards of conduct of a given profession or group or the standard created under the code of ethics.

## VII. Official Capacity of Kickapoo Tribal Council Members

- A. No Tribal Council member shall engage in outside employment or activities not compatible with the full and proper discharge of the duties and responsibilities of their elected position. The matter of dedication is decided at the time a Tribal Council member is sworn into office.
- B. No Tribal Council member shall use their elected position to coerce, threaten, or intimidate a person or group to provide financial benefit or personal gain to the Council member or another person with whom he/she has family business or financial ties, or for any other purpose that is deemed improper. This shall include the selling or soliciting of goods, gifts, loans, entertainment, or favors for him/herself or another person with whom he/she has family, business, or financial ties, or any other purpose.
- C. Tribal Council members are restricted from using their official title, position, or office while conducting personal business.
- D. No Tribal Council members shall make false or fraudulent statements or claims which reflect discredit or loss of programs, goods, services, or monies. Each Tribal Council member shall exercise caution and use sound judgment at all times.
- E. No Tribal Council member shall willfully and/or unlawfully conceal, remove, mutilate, falsify, destroy or transfer and important documents, papers, records, or property of the Kickapoo Tribe in Kansas or its entities.
- F. All Tribal Council members are restricted from and shall avoid impeding Tribal business, efficiency, or economy by refusing to follow instruction, recommendations, or procedures as set forth by a majority of the Tribal Council and shall avoid making a Tribal decision or commitment prior to a majority vote of the Tribal Council.

**VII. Conflicts of Interest**

- 1. **Financial or Personal Gain:**  
No Council member shall have any financial or personal interest in any business or transaction with any public body unless the Council member shall first make full public disclosure of the nature and extent of such interest and it is determined by Council by an official vote that a conflict does not exist.
- 2. **Disclosure and Disqualification of Council Members:**  
Whenever the performance of official duties shall require any Tribal Council member to deliberate and vote on any matter that he/she may have personal or financial interests that Tribal Council member shall publicly disclose on the record at a Tribal Council meeting the nature and extent of

such interest. The Tribal Council member shall be disqualified from participating in the deliberation and the voting on this matter.

3. **Incompatible Employment:**  
No Tribal Council member shall engage in private employment with, or render services, for, any private person, partnership, or firm, or any Tribal public body unless the Council member shall first make full disclosure at the Tribal Council meeting of the nature and extent of such employment services. Approval to continue must be made by Tribal Council action.
4. **Employment of Relatives & Friends:**  
No Tribal Council member shall employ, or become involved in the hiring of any relative by blood or marriage on any basis other than merit and fitness for the position as identified through regular administrative procedures. This shall not prohibit the implementation or intent of Indian Preference hiring practices. Undue influence by a Council member to obtain employment for a family member or friend is strictly prohibited.
5. **Representation of Private Persons:**  
No Tribal Council shall appear on behalf of any person, other than him or herself, before any court, agency, or administrative body (other than a Tribal Internal Review Hearing or proceeding pursuant to this code) where the Tribe is a party or has an interest, unless first approved by Tribal Council action.
6. **Acceptance of Tribal Council Action:**  
No Tribal Council member shall undermine or publicly disagree with official Tribal Council action.

## **IX. Standards of Conduct**

This section contains policies, procedures, and restrictions concerning the ethics and other conduct and responsibilities of Tribal Council members in the discharge of their official duties.

1. Tribal Council members are to avoid any action which reflects discredit to the Kickapoo Tribe and its membership.
2. Tribal Council members are expected to maintain high standards of honesty, integrity, impartiality, and conduct to ensure the proper performance of tribal business.
3. Tribal Council members, at all times, must maintain continual trust and confidence and reflect the qualities of courtesy, consideration, and loyalty to fellow tribal members, tribal employees, and contacts made in the performance of their duties.

4. Tribal Council members must exercise a deep sense of responsibility for promptness in dealing with and serving the general membership of the Kickapoo Tribe in Kansas.
5. Tribal Council members must pay in a timely manner all just financial obligations acknowledged or judgment by a court so as not unduly reflect on the Kickapoo Tribe in Kansas.
6. Tribal Council members shall refund salary overpayments and travel expense advances when not expended for the purposes intended.
7. Tribal Council members shall maintain high personal moral integrity so as to reflect discredit or embarrassment to the Kickapoo Tribe in Kansas or its membership. This includes the following:
  - a.) Any Elected official must not be identified for child abuse or neglect.
  - b.) Must not be involved in the unlawful use of drugs.
  - c.) Must not be a habitual alcohol addict that adversely affects the performance of the Council member.
  - d.) Must be honest, courteous, truthful, and treat all people with understanding and fairness.
9. Tribal Council members shall NOT receive any additional salary or compensation, benefits, or reimbursements for expenses for services performed pursuant to a contract for services with a public or private body, or Tribal enterprise where that member is being compensated by that body for that work.
10. Tribal Council members shall NOT knowingly and willfully commit any act forbidden by law within their official capacity.
11. Tribal Council members shall NOT, in their capacity as a Tribal Council member, make an entry in an account, record book, return, certificate, report, or statement in with knowingly and intentionally falsifies and misleads.
12. Tribal Council members shall NOT intentionally solicit or accept for the performance of any Tribal service or duty anything of value, including, but not limited to, any gift, loan, favor, or service, given for the purpose of influencing them in the discharge of their official duties. However, Tribal Council members may accept such items if there is no likelihood of improper influence or the appearance of improper influence and the item is one of the following:

- f.) A non-cash gift of nominal value (\$50 or less) such as are received at holidays;
- g.) Gifts, available to the general public under the same conditions as they are available to the Tribal Council member;
- h.) Civic, charitable, educational, or religious organization awards for recognition of service and accomplishment;
- i.) Gifts because of kinship, marriage, or social relationship apart from any business with the Tribe; or
- j.) Trips, guest accommodations, or other travel expenses that could otherwise be reimbursed as a legitimate business expense and they involve formal representation of the Tribe or in the conduct of official Tribal business.

Any gift received shall be registered with the Secretary of the Tribal Council for further disposition. Property valued at \$50 or more shall become the property of the Kickapoo Tribe and disposed of according to established procedures.

- 14. Tribal Council members shall NOT use Tribal property, facilities, or resources for private or personal gain for themselves, family, or others.
- 15. Tribal Council members shall NOT use confidential information for their personal gain or benefit, or for the gain or benefit of family or others, or to intentionally harm others.
- 16. Tribal council members shall act in the best interest of the membership of the Tribe. Similarly, Tribal Council members shall not grant special consideration or treatment to any Tribal member beyond what is available to every other Tribal member.
- 17. Tribal Council members may not serve as an employee of a public, private, or Tribal body, chartered corporation, or other Tribal enterprise, or any other business firm or partnership in which the Tribe or Tribally-chartered corporation or enterprise has more than a nominal interest.
- 18. Tribal Council members shall NOT function in an official capacity while intoxicated or under the influence of illegal or incapacitating drugs.
- 19. Tribal Council members SHALL not commit perjury or fraud.
- 20. Tribal Council members SHALL not engage in actions or activities that discredit or bring disrespect to the Kickapoo Tribe in Kansas.
- 21. Tribal Council members SHALL not represent him/herself as acting on behalf of the Tribe without specific authorization from the Tribal Council to do so.

22. Tribal Council members shall NOT knowingly misrepresent, or undermine, the Tribe or a position the Tribe has taken.
23. Tribal Council members shall NOT use one's position as a Tribal Council member to threaten, coerce, or intimidate a person or entity to provide a financial benefit or other personal gain to him/herself, or another person with whom the Council member has family, business, or financial ties, or for any other purpose.

The following list is to assure the membership of the Kickapoo Tribe in Kansas that they have access to its elected officials on any matter of importance:

- A. Any business that secures and protects our people and land rights have top priority over diplomatic and public relations.
- B. The Tribal Council must know the location of any absent Tribal Council member. (During Business Hours)
- C. While on duty, all Tribal Council members shall make every effort to check in and out with the front office staff which shall include destination and expected time of return.
- D. Tribal Council members shall be available during regular business hours at the Administrative office unless otherwise delegated to another location for duty or official business.
- E. The Tribal Council shall meet weekly, unless urgent circumstances prevent this.
- F. Tribal Council members must have a justifiable reason for being absent during regularly scheduled meetings.
- G. Illegal drugs are strictly prohibited for use by Tribal Council members at all times.
- H. Tribal Council members are expected to be on call 24-hours per day, seven days per week.
- I. Tribal Council members will accrue flexible time off (FTO) in accordance to current Kickapoo Tribal policy. For those Tribal Council members whose terms expire, they will receive payment for any remaining accrued FTO at the end of their term. If the Tribal Council member is re-elected, it will be at their discretion whether to keep payment or turn it back in for credit to their FTO leave bank.
- J. Paid Holidays shall be determined at the discretion of the Tribal Council.
- X. **Conduct of Tribal Delegates**

Members of the Kickapoo Tribal Council and/or others delegated to represent or act on behalf of the Kickapoo Tribe in Kansas during the conduct of official Tribal business must adhere to the procedures outlined below:

1. Any appointee shall be delegated by approval from the Tribal Council. The Tribal delegate shall attend all scheduled meetings and/or proceedings and shall maintain an attendance record of authorized meetings.
2. No use of intoxicants or related beverages shall be consumed to excess which would impair a delegate's ability to represent the Tribe in a professional and able manner and which would cause discredit or embarrassment to the Tribe.
3. No use of illegal drugs shall be used while representing the Kickapoo Tribe in Kansas.
4. No social activities that demoralize or cause embarrassment to the Kickapoo Tribe in Kansas.
5. No immediate family or friends shall travel at Tribal expense unless delegated by the Tribal Council to act and travel as a Tribal representative.
6. No personal business or business directly related to the Kickapoo Tribe in Kansas shall be acted upon while on official duty/travel status.
7. The delegate shall represent themselves in a professional manner at all time while acting on behalf on the Kickapoo Tribe in Kansas.
8. Any delegate who is arrested as a result of illegal or unacceptable behavior shall be solely responsible for their own release and legal fees. Absence as a result of arrest and convictions may be considered misconduct, which is a violation of this code, and sanctions can be imposed.

#### **XI. Misuse of Funds, Credit Cards, Equipment, Vehicles**

##### **A. FUNDS**

Tribal Council members shall be held accountable for moneys entrusted to Tribal program use, or in connection with official Tribal duties.

1. Tribal Funds withdrawn for specific purposes by an elected official shall be expended for those purposes only. These funds include dues, fees, donations, contributions, activities, or for services and materials received by and for the Tribe.

2. Any Tribal funds withdrawn for pay, cost of travel, and expenses to attend any official Tribal function shall be expended for those purposes only.
3. Tribal funds withdrawn for any authorized Tribal project or program are restricted to those purposes only. Funds may not be withdrawn for any nonessential, or fraudulent purposes.
4. In all cases, all Tribal funds not expended for authorized purposes must be repaid by the responsible TRIBAL Council member within seven (7) working days after notification.
5. **TRAVEL FUNDS SHALL BE DISBURSED BY ACTUAL EXPENSE INSTEAD OF PER DIEM RATES. RECEIPTS MUST BE ATTACHED WITH TRAVEL VOUCHER BEFORE CREDIT WILL BE GIVEN. TRIBAL CREDIT CARD RECEIPTS ARE ACCEPTABLE.**

**B. CREDIT CARDS & CALLING CARDS**

1. Credit cards and Calling cards shall be issued to each Tribal Council member for use while on official DUTY, or representing, Tribal Council business.
2. Each Tribal Council member shall be solely responsible for the use and security of these cards.
3. The cards always remain the property of the Kickapoo Tribe in Kansas and shall be returned to the Tribe in the event the Council member leaves their office.
4. Each Tribal Council member is solely responsible to maintain accurate records that document the use of any credit or calling card.
5. Each Tribal Council member is solely responsible to ensure that proper receipts and other documentation is provided to ensure that proper payment is processed in a timely manner.
6. Failure to comply with, or misuse of a credit card or calling card shall be considered misconduct and shall be cause for sanctions under this code.

**C. EQUIPMENT**

1. Tribal Council members shall be held accountable for all equipment entrusted to their individual use during the course of their tenure and for official business only.

2. No Tribal Council member shall use or authorize the use of Tribally-owned equipment or leased equipment for other than official Tribal business purposes.
3. Unless specifically approved by Tribal Council authority or as otherwise approved by Tribal policy.

#### D. MOTOR VEHICLE

No Tribal Council member shall use or authorize the use of a Tribally-owned vehicle or a leased vehicle for other than official business purposes, unless specifically approved by Tribal Council authority or as otherwise approved by Tribal policy.

### XII. Procedures for Ethics Code Violations

All alleged violations of this Ethics Code shall be processed in the following manner and without exception or modification. Unless otherwise stated, it shall be understood that the Tribal Council Chairman is the member against whom the allegations are being made. In that event, then the next highest ranking officer of the Tribal Council not accused of allegations shall preside.

#### A. Role of the Tribal Council

1. The Tribal Council shall be responsible for processing alleged ethical violations under this ordinance.
2. The Tribal Council shall be responsible for ensuring the privacy and confidentiality of the entire process and all related information.

#### B. Role of Tribal Council Member accused of Ethical Violation

1. A Tribal Council member against whom an allegation of unethical conduct under this ordinance is made shall not participate in review of the allegation by the Tribal Council, or consideration by the Tribal Council, of whether unethical conduct occurred and appropriate sanction for such conduct, or voting in open session on whether an ethical violation occurred and on an appropriate sanction.
2. A Tribal Council member against whom an allegation of unethical conduct under this ordinance is made shall not attempt to interfere with the proceedings nor attempt to persuade or coerce witnesses or other Tribal Council members in their favor.

#### C. Ethical Allegations

Allegations of unethical conduct by a Tribal Council member shall be presented to the Tribal Council and processed in the following manner:

1. Allegations of unethical conduct against a Tribal Council member shall be made in writing and submitted to the Tribal Council Chairman, provided that if an allegation is made against the Tribal Council Chairman, said allegation shall be filed with the Vice-Chairman. Submission to the Tribal Council Executive Secretary shall be considered as delivery to the appropriate Tribal Council officer.
2. A written complaint may be submitted by any person who believes that a Tribal Council member has engaged in unethical conduct as defined by this ordinance. The complaint shall specify the Tribal Council member against whom a complaint of unethical conduct is being made, and the conduct that is alleged to be unethical.
3. A Tribal Council member may make an oral allegation of unethical conduct against another Tribal Council member during a regular or special Tribal Council meeting. A Tribal member may make an oral allegation of unethical conduct against a Tribal Council member during a scheduled General Council meeting. Such an oral allegation shall be treated the same as the submission of a written allegation. The Tribal Chairman may ask the person making such an oral allegation questions that will clarify:
  1. the Tribal Council member against whom the allegation is being made;
  2. the nature of the allegation;
  3. to reduce the allegation to writing.
4. If an allegation of unethical conduct on the part of a Tribal Council member involves action which allegedly wronged a person and the allegation is made by someone other than the person against whom the unethical conduct allegedly occurred, the person against whom the unethical conduct allegedly occurred shall be notified in writing of the allegation and asked to submit their views on said allegation. (To the Tribal Chairman or appropriate official as indicated in Section XII part 1)

D. Initial Review of Allegation

The Tribal Council shall perform an initial review in executive session of an allegation of unethical conduct on the part of a Tribal Council member. This initial review may be conducted at the time the allegation is made, or at any subsequent time during a regular or special Tribal Council meeting, provided that such a review shall take place no later than thirty-one calendar days after it has been submitted. The initial purpose of this initial review shall be to determine whether the allegation made falls within the scope of this ordinance and whether, assuming the facts alleged are true, and facts would support a determination of unethical conduct. The Tribal Council member against whom the allegation is made shall not participate in this initial review process.

## E. Investigation

If the Tribal Council, upon completion of the initial review, determines that the allegation falls within the scope of this ordinance and alleges the facts, if true, might support a determination of unethical conduct. The Tribal Council shall refer the allegations for investigation as specified below. The Tribal Council member against whom the allegation is made shall be provided with a copy of the allegation, or if made orally, a written summary of the allegation. The determination by the Tribal Council that the allegation requires further investigation shall not be a final decision until an official decision is rendered in open session of the Tribal Council.

1. Such an investigation may be performed by an ad hoc committee of the Tribal Council or by a special advisor approved by the Tribal Council. If the Tribal Council does not approve a special advisor, the Tribal Council Chairman shall appoint one, unless the Chairman is the member against whom the allegation is made, then the next highest ranking officer of the Tribal Council not accused in the allegation shall make the appointment.
2. The investigator whether ad hoc Tribal Council committee or a special advisor shall have power to conduct interviews, gather information through District Court to issue subpoenas and other evidence as determined by the committee or special advisor.
3. The Tribal Council member against whom an allegation is made, the person allegedly wronged by the Tribal Council's action, if any, members of the Tribal Council and the Tribal Attorney shall have the right to be present when interviews are conducted.

## XII. Hearings

The results of the investigation shall be presented to the Tribal Council in executive session, in a hearing at which the Tribal Council member against whom the allegation is made, or his/her spokesperson, the Tribal Attorney, the complainant, and the person allegedly wronged by the Tribal Council member's action, if any may be present and may present evidence, cross examine witnesses, and question the investigator.

1. The investigator shall notify the Tribal Chairman of the completion of the investigation or of a date when the investigation will be completed. If the investigation will take longer than thirty (30) calendar days to complete, the investigator shall obtain approval of the Tribal Council to extend the investigation for a specified period of time.
2. Any investigation performed under this ordinance shall be completed by the issuance of a written report which summarized the evidence, gives an

opinion on the issue of whether the allegation is true or false and, if said opinion is that the allegation is true, recommends a sanction, if any, to be imposed on the Tribal Council member.

3. Upon receipt of the investigation report, the Tribal Chairman shall send notice certified mail to the Tribal Council member accused of the ethical violation, the complainant, and the person allegedly wronged by the Tribal Council member's actions, if any, setting a hearing date and time at a Tribal Council meeting not less than ten (10) and not more than forty-five (45) calendar days from the date of the notice, at which time the investigation report shall be presented and the hearing will take place. A copy of the investigation report shall be included with such notice, along with a statement declaring that the report shall be included with such notice, along with a statement declaring that the report shall be kept confidential and not disclosed to any other person not receiving a copy and except to the Tribal Council member's designated spokesperson.
4. The hearing shall take place in executive session, and shall be recorded. Only the Tribal Council, Tribal Council Executive Secretary, Tribal Attorney(s), complainant, person allegedly wronged by the Tribal Council member's actions, if any, Tribal Council member accused of an unethical violation, and his/her spokesperson shall be present during the hearing, provided, that witnesses may be called into the Tribal Council executive session to provide testimony only.

A. Deliberation

At the conclusion of the hearing, all parties present except the Tribal Council members presiding at the hearing and Tribal Attorney(s) shall be excused from the executive session so the Tribal Council can review the evidence and considered a decision and/or appropriate sanction, if any. A recommendation shall be made but a final decision must be made in open session.

B. Decision

The Tribal Council shall decide, without discussion of the hearing, in open Tribal Council session, by recorded vote, whether an ethical violation under this ordinance has occurred. Said decision shall be made by a 2/3 vote of the entire Tribal Council, except the Tribal Council member against whom the allegation has been made. If the Tribal Council decides that an ethical violation has occurred, the Tribal Council shall then decide, by motion, and appropriate sanction, if any, to impose on the Tribal Council member who engaged in the unethical conduct.

**XIV. Sanctions**

1. The Tribal Council may impose a sanction, or sanctions, against any Tribal Council member who is found to have engaged in unethical conduct as defined under this ordinance. Such sanctions may include, but shall be limited to, the following:
  - a. Reprimand, which is defined as a public censure or condemnation administered by the Tribal Council;
  - b. Restitution;
  - c. Suspension without pay;
2. If it is determined through the hearing process that the allegation against the Tribal Council member has been submitted for purpose of harassment or for other improper purposes, or is completely without merit, The Tribal Council member against whom such allegation is made may seek damages or other appropriate relief in the Kickapoo Tribal Court.

#### **XV. Appeals**

Any Tribal Council member who is found to have violated this ordinance and against whom sanctions have been imposed by the Tribal Council shall have the right to appeal such determinations to the Kickapoo Nation Tribal Court pursuant to the Kickapoo Nation District Court rules and Procedures. This appeal must be made, in writing, to the Kickapoo Nation District Court within thirty (30) days after the final decision has been made by the Tribal Council. The decision made by the Kickapoo Nation District Court if final and there shall be no further appeal process available to the Tribal Council member against whom an allegation was made and sanctions made by the Kickapoo Tribal Council.

#### **XVI. Confidentiality**

1. Tribal Council members, the complainant, any person allegedly wronged by the Tribal Council member's actions, if any, and any other person involved with the investigation or review of an ethical violation under this ordinance shall keep all information obtained in the process confidential, unless otherwise ordered by a court of competent jurisdiction. The investigation report prepared pursuant to this ordinance shall be kept confidential and shall not be copied or distributed without the express written authorization by the Tribal Council or Kickapoo Nation District Court.
2. Any person who receives a copy of the investigation report shall be required to execute a pledge of confidentiality before being provided a copy of the investigation report, and shall be subject to a fine not to exceed \$1,000 for violation of said pledge. Any fine collected pursuant to this section shall be credited to the Tribe's General Fund. Violation of this section shall be a violation of this ordinance for Tribal Council members

and grounds for discipline of those members and any other Tribal employees found in violation of this ordinance.

**XVII. Severability**

If any provision of this ordinance is held to be unconstitutional or invalid by the Kickapoo Nation District Court only the invalid provision or language shall be severed and the remaining provisions and language in this ordinance shall remain in full force and effect.

**XVIII. Certification**

The foregoing ordinance was adopted by the Kickapoo Tribal Council at a Special meeting held on November 13, 2008. A full quorum of Tribal Council members was present and this ordinance was approved by a majority vote with 5 votes, FOR; and 0 votes AGAINST; with the Chairman ABSTAINING.



Secretary, Kickapoo Tribal Council