

# CONSTITUTION OF THE CENTRAL COUNCIL OF TLINGIT AND HAIDA INDIAN TRIBES OF ALASKA

## PREAMBLE

We, the Tlingit and Haida Indian Tribes, in order to form a single regional tribal government, establish the Central Council of the Tlingit and Haida Indian Tribes of Alaska as its tribal government and recognizes its roots stem from our traditional clans and villages and honors the Alaska Native Brotherhood and Sisterhood in organizing the Tribe.

In order to preserve our culture and way of life, known as “Haa Kusti” among the Tlingit and “Tlagw íitl' xíinangaa Gíidang” among the Haida, to protect and exercise our inherent sovereignty and jurisdiction through self-government and self-determination, to defend the property, equality and liberty of our citizens, and in so doing promote the dignity and welfare of the tribal citizens, do ordain and establish this *Constitution* of the Central Council of Tlingit and Haida Indian Tribes of Alaska.

## ARTICLE I. TERRITORY AND JURISDICTION

In conformance with tribal law and applicable federal law, the territory and jurisdiction of the Central Council of Tlingit and Haida Indian Tribes of Alaska (hereinafter referred to as “Tlingit & Haida”) shall include:

**Section 1.** All lands, islands, waters, airspace, or any interest therein, including those subject to conveyance under the Alaska Native Claims Settlement Act, as amended –

- a. within the boundaries of any reservation which may be established for the Tribes, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;
- b. within the boundaries of the dependent Indian communities of the Tribes, including those established pursuant to the *Rules of Election*, as amended; and
- c. now or hereafter held by the United States in trust for the Tribe, or for any enrolled tribal citizen thereof, or held by the Tribe or tribal member citizen subject to a federal law restriction against alienation or taxation.

**Section 2.** The jurisdiction of the Tribe extends to all persons, property and activities within the territory described in Section 1.

## **ARTICLE II. SOVEREIGN POWERS AND RECOGNITION**

Tlingit & Haida is established pursuant to the inherent sovereign authority of the Tlingit and Haida Indian Tribes of Alaska. Tlingit & Haida is recognized by the United States of America as a federally recognized tribal government pursuant to Section 8 of the Act of June 19, 1935 (49 Stat. 388), as amended by the Act of August 19, 1965 (79 Stat. 543), and the Act of November 2, 1994 (Public Law 103-454, 108 Stat. 4792). The Tribal Assembly is the general legislative and governing body of Tlingit & Haida. Its functions are to secure, preserve and exercise the inherent sovereign rights, powers, authorities, privileges, and immunities of Tlingit & Haida and all such other rights, powers, authorities, privileges, and immunities as Tlingit & Haida shall possess or be granted, to maintain a roll of and promote the general welfare of the tribal citizens of Tlingit & Haida, and to legislate for and govern Tlingit & Haida and its tribal citizens.

## **ARTICLE III. TRIBAL CITIZENSHIP**

**Section 1.** The citizens of Tlingit & Haida shall be:

- a. All living persons included on the roll prepared by the Secretary of the Interior pursuant to Section 8 of the Act of June 19, 1935 (49 Stat. 388), as amended by the Act of August 19, 1965 (79 Stat. 543); and
- b. All other living persons of Tlingit or Haida blood:
  - 1) Who were legal residents of the Territory of Alaska on June 19, 1935, or prior thereto, or who are descendants of such persons, and
  - 2) Who duly apply for citizenship in Tlingit & Haida and show to the satisfaction of Tlingit & Haida that they are eligible therefor.

**Section 2.** Tlingit & Haida shall have power to enact a statute governing citizenship, including enrollment and deletion of names improperly included on the tribal roll; provided, that any person who believes he or she has been incorrectly deleted from the tribal roll shall be entitled to a hearing before Tlingit & Haida's Supreme Court, shall be given reasonable notice of the hearing, and shall have the opportunity to testify and present evidence on his or her own behalf. The decisions of Tlingit & Haida Supreme Court as to citizenship shall be considered final.

## **ARTICLE IV. DELEGATES TO THE TRIBAL ASSEMBLY**

**Section 1.** The Tribal Assembly of Tlingit & Haida shall be composed of delegates from the Communities of Tlingit and Haida Indian Tribes listed in the *Rules of Election* adopted and

approved as provided in Section 7 of the Act of June 19, 1935, as amended, who shall be elected in accordance with such *Rules* and Article III of this *Constitution*.

**Section 2.** A vacancy shall be declared by Tlingit & Haida in the event any delegate to the Tribal Assembly is determined to be unable to perform the duties of the office due to incapacity or recall for cause. A delegate shall be removed from such office for any of the following reasons:

- a. Conviction of a felony offense or an offense involving an act of moral turpitude while in office with removal upon an affirmative, majority vote of four (4) Vice-Presidents of the Executive Council or an affirmative, majority vote of two-thirds (2/3) of the Tribal Assembly delegates;
- b. Removal from such office by affirmative, majority vote of two-thirds (2/3) of the Tribal Assembly delegates from any of the following reasons:
  1. Malfeasance, misfeasance or misconduct that constitutes gross misconduct while in office or a violation of oath of office;
  2. Incapacity to perform or failure to perform official duties, including:
    - i. Failure of the delegate to satisfy the requirements for holding office as provided in the *Rules of Election*;
    - ii. Absence of the delegate from three (3) consecutive days of any Tribal Assembly annual meeting without prior notice of good reason with such absence approved by the Tribal Assembly delegates;
    - iii. Gross misconduct in office or neglect of duty by the delegate after his or her election to the office of delegate;
    - iv. Physical or mental incapacity of the delegate to perform the duties of the office of delegate.

Before any vote is taken to remove a delegate, the delegate shall be provided with a written statement of the charges against the delegate at least ten (10) days before the meeting of the Tribal Assembly at which the vote is taken, and shall be given a fair opportunity to be heard before the Tribal Assembly in answer to such charges prior to the vote being taken. Any delegate who believes he or she has been incorrectly removed from office shall be entitled to a hearing before Tlingit & Haida Supreme Court, shall be given reasonable notice of the hearing, and shall have the opportunity to testify and present evidence on his or her own behalf. The decisions of Tlingit & Haida's Supreme Court as to removal shall be considered final.

## **ARTICLE V. DELEGATE ELECTIONS**

**Section 1.** General elections of delegates to the Tribal Assembly of Tlingit & Haida shall be held every even-numbered year on the third Thursday in March.

**Section 2.** Subject to the *Rules of Election* and the approval of Tlingit & Haida, each Community entitled to elect delegates to the Tribal Assembly shall prescribe its method of election.

**Section 3.** In the absence of an approved election procedure for a Community, Tlingit & Haida shall appoint the members of the Local Election Committee for that Community from the names appearing on the current list maintained by Tlingit & Haida of eligible voters in the Community.

**Section 4.** A vacancy occurring during the term of office of a delegate to the Tribal Assembly shall be filled by the Local Community Council.

**Section 5.** Tlingit & Haida shall enact a statute which, in conformity with this *Constitution*, governs general and special elections, petitions for recall, initiative, referendum, and procedures for the consideration and adoption of constitutional amendments. The statute shall provide for all aspects of general and special elections, including secret ballot, absentee voting, temporary absence from the community, notice of election, notice of nomination of candidates, election appeal, and certification of elections.

**ARTICLE VI. TRIBAL ASSEMBLY**

**Section 1.** The delegates of the Tribal Assembly shall regularly assemble each year commencing on the third Wednesday in April, unless for a particular year Tlingit & Haida shall designate another day for the commencement of the Tribal Assembly.

**Section 2.** The Tribal Assembly shall be held in Juneau each year that delegate elections are held and may be held in another Community in a non-election year upon invitation by that other Community through resolution at the preceding election year Tribal Assembly.

**Section 3.** Special assemblies of the Tribal Assembly may be called by the President, or by the Executive Council, or by notice supported by not less than one-fourth (1/4) of the delegates. Calls and notices for a special assembly shall set forth the purpose for such assembly but at such special assembly Tlingit & Haida may transact any other business or take any other actions within its powers.

**Section 4.** At all assemblies of the Tribal Assembly a quorum shall consist of a majority of those holding the office of delegate and no business shall be transacted unless a quorum is present. All assemblies shall be conducted in conformance with this *Constitution*, “Convention Rules” adopted by Tlingit & Haida, and *Robert’s Rules of Order*. Any conflict among the preceding authorities shall be resolved by in the order of precedence set forth in the preceding sentence.

**ARTICLE VII. POWERS OF THE GOVERNING BODY OF THE TRIBE**

**Section 1.** The governing body of Tlingit & Haida shall be comprised of the Tribal Assembly of delegates, and, consistent with the terms of this Constitution, the Executive Council. The governing body of Tlingit & Haida shall possess sovereign and plenary power to legislate for and to govern, conduct and manage the affairs and property of the Tribe, including, without limitation, the following:

- a. To maintain a roll of the member citizens of Tlingit & Haida and to decide upon the qualifications and applications of persons seeking member citizenship in Tlingit & Haida.
- b. To purchase, lease, take by gift, grant, devise or bequest, or otherwise acquire, own, hold, improve, use and otherwise deal in and with money, securities, real and personal property, rights and services of any kind and description, or any interest therein, including any property obtained pursuant to the Alaska Native Claims Settlement Act, as amended.
- c. To sell, convey, grant, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its real and personal property and assets, including any property obtained pursuant to the Alaska Native Claims Settlement Act, as amended except as prohibited by federal law.
- d. To negotiate and enter into contracts with persons and entities of every kind and description, public and private; to represent the will of Tlingit & Haida on all occasions and in all activities; to engage in relations, negotiations, agreements, and consultations with other tribal, local, state and national governments on behalf of the Tribe; and to take such additional steps with respect to matters of the Tribe as may be required to: (i) perform, implement and give effect to the activities requiring the consent of the Tribe; and (ii) to perform, implement, give effect to and administer such consent.
- e. To borrow and raise money by all lawful means, and to pledge the credit of the Tribe.
- f. To employ qualified persons to render professional and technical services as needed.
- g. To authorize the advance, expenditure, use, investment and reinvestment of funds on deposit in the treasury of the United States to the credit of the Central Council of Tlingit and Haida Indian Tribes of Alaska in such manner and for such purposes as may be authorized by Congress.
- h. To consult with and advise any and all persons, officers and entities, public and private, concerning subjects and matters affecting the interests of the Tribe.
- i. To designate Communities which may elect delegates to Tlingit & Haida, to prescribe the qualifications for delegates, to rule on the qualifications and status of those presenting themselves as delegates, and to determine all matters relating to member citizenship in the Tribe.
- j. To authorize and approve constitutions for Community Councils and to delegate to such Community Councils such governmental and proprietary functions as Tlingit & Haida shall determine under such rules and regulations and subject to such limitations and conditions as Tlingit & Haida shall prescribe.

- k. To hear and determine or otherwise provide for the hearing and determination of cases, controversies and matters arising within the jurisdiction of the Tribe, and to establish courts and other tribunals to exercise the judicial powers of the Tribe.
- l. To provide for the establishment of standing committees of Tlingit & Haida and to prescribe their functions and jurisdictions.
- m. To exercise the power of eminent domain over land or interests therein within the territory and jurisdiction of the Tribe in conformance with applicable federal law.
- n. To exercise the power to tax and to establish tariffs, fees or assessments with respect to any person or entity within the territory and jurisdiction of the Tribe in conformance with applicable federal law.
- o. To enact resolutions, regulations, and statutes to safeguard and promote the peace, health, safety and general welfare of the Tribe in conformance with applicable federal law.
- p. To conduct and manage the affairs and property of the Tribe, and to provide services to individual member citizens of the Tribe, or to other entities owned by individual member citizens of the Tribe, including corporations organized pursuant to the Alaska Native Claims Settlement Act, as amended.

**Section 2.** Tlingit & Haida shall possess such powers as are incident and necessary to the execution of the powers set forth above, and such further powers as it may from time to time be granted.

**Section 3.** Tlingit & Haida, through either the Tribal Assembly or the Executive Council, may charter or otherwise authorize and provide for the organization of subordinate groups or entities to perform governmental, proprietary and revenue-raising enterprise functions for the Tribe and its member citizens, and to delegate to such subordinate groups or entities such powers as it shall determine under such rules and regulations and subject to such limitations and conditions as it shall prescribe.

**Section 4.**

a. **Sovereign Immunity of the Tribe**

The sovereign immunity of the Central Council of Tlingit and Haida Indian Tribes of Alaska may be waived only by express legislative action of the Tribal Assembly or the Executive Council after consultation with the tribal attorneys. All waivers of sovereign immunity must be preserved with the acts and resolutions of Tlingit & Haida of continuing force and effect. Waivers of sovereign immunity are disfavored and shall be granted only when necessary to secure a substantial advantage or benefit to the Tribes. Waivers of sovereign immunity shall not be general but shall be specific and limited as to duration, grantee, transaction, property or funds, if any, of the Tribe subject thereto, court having jurisdiction pursuant thereto and law applicable thereunder.

**b. Sovereign Immunity of Subordinate Entities**

Subordinate entities of Tlingit & Haida created pursuant to Section 3 of this Article shall have the same sovereign immunity as the Central Council of Tlingit and Haida Indian Tribes of Alaska. The sovereign immunity of any such subordinate entity may be waived only by express resolution of the governing body thereof and pursuant to its organic Document. Waivers of sovereign immunity of governmental subdivisions of Tlingit & Haida are disfavored and shall be granted only when necessary to secure a substantial advantage or benefit to the governmental subdivision. Waivers of sovereign immunity shall not be general but shall be specific and limited as to duration, grantee, transaction, and property or funds, if any, of the subordinate entity thereto, court having jurisdiction pursuant thereto and law applicable thereunder. No subordinate entity may waive the sovereign immunity of the Central Council of Tlingit and Haida Indian Tribes of Alaska, nor may any action of a subordinate entity impair or affect the credit or assets of Tlingit & Haida in any manner.

**c. Sovereign Immunity of Tlingit and Haida Community Councils**

The sovereign immunity of a Tlingit and Haida Community Council may be waived only by express legislative action of the Community Council after consultation with the Community attorneys. All waivers of sovereign immunity must be preserved with the acts and resolutions of the Community Council of continuing force and effect. Waivers of sovereign immunity of a Tlingit and Haida Community Council are disfavored and shall be granted only when necessary to secure a substantial advantage or benefit to the Community. Waivers of sovereign immunity shall not be general but shall be specific and limited as to duration, grantee, transaction, and property or funds, if any, of the Community subject thereto, court having jurisdiction thereof and law applicable thereunder. No Community Council may waive the sovereign immunity of the Central Council of Tlingit and Haida Indian Tribes of Alaska, nor may any action of a Community Council impair or affect the credit or assets of Tlingit & Haida in any manner.

## **ARTICLE VIII. OFFICERS AND EXECUTIVE COUNCIL**

**Section 1.** At its first Assembly after each general election of delegates, the Tribal Assembly shall elect from among the regular delegates the following executive officers: President, First Vice President, Second Vice President, Third Vice President, Fourth Vice President, Fifth Vice President, and Sixth Vice President, which executive officers shall comprise the Executive Council of Tlingit & Haida and serve until their successors are elected and qualified.

- a. Candidates for executive office must announce their candidacy by submission of a Declaration of Intent to Serve to the Tlingit and Haida Central Council Office no later than ten (10) calendar days prior to the first day of Tribal Assembly at which an election of officers shall be held.
- b. An incumbent President need not be a delegate to be re-elected as President.
- c. The President may vote only to break a tie or when it is clear the vote of the President will affect the outcome of the issue.

**Section 2.** Immediately upon their election and before entering upon the duties of their offices each executive officer shall take the following oath:

**“I, \_\_\_\_\_ [name of person] \_\_\_\_\_, do solemnly swear that I will bear true faith and allegiance to the Central Council of Tlingit and Haida Tribes of Alaska and its member citizens, that I will support the *Constitution* of Tlingit & Haida, and that I will faithfully discharge the duties of the office upon which I am about to enter, so help me God.**

**Section 3.** Upon the death, resignation or removal of a Vice President, each of the remaining Vice Presidents ranking below the departed Vice President shall be elevated one office and the Governing Body shall appoint a Sixth Vice President from among the other regular delegates to serve until the next election of executive officers.

**Section 4.** An executive officer who is charged in writing subscribed by not less than two-fifths (2/5) of the delegates to the Tribal Assembly of Tlingit & Haida with neglect of duty or gross misconduct may be removed from office by an affirmative vote of a two-thirds (2/3) majority of the delegates; provided that before a vote on his or her removal may be taken, the executive officer concerned shall be provided with a written statement of the charges against the executive officer at least ten (10) days before the meeting of the Tribal Assembly at which the vote is taken, and shall be given a fair opportunity to be heard before the Tribal Assembly in answer to such charges prior to the vote being taken. Officers other than executive officers and judges of the Tribe’s Courts shall serve at the pleasure of Tlingit & Haida and the President and actions of Tlingit & Haida or the President concerning the removal of such officers shall be final.

**Section 5.** Officers of and delegates to Tlingit & Haida shall receive such compensation and allowances, if any, as shall be prescribed by Tlingit & Haida, subject to the availability of funds.

## **ARTICLE IX. FUNCTIONS OF OFFICERS**

**Section 1.** The President of Tlingit & Haida shall be its chief executive officer. He or she shall preside over all assemblies of Tlingit & Haida and, subject to its direction, he shall conduct and manage the business of Tlingit & Haida, execute documents and otherwise act for and on behalf of Tlingit & Haida, be a member *ex officio* of all committees of Tlingit & Haida, and exercise such other powers as may be delegated to him or her. The President may delegate authority to others to perform functions and exercise powers of his or her office, and appoint committees to assist Tlingit & Haida or the President in the performance of their functions. The President shall be entitled to vote in the Tribal Assembly in the same manner as are delegates but only to break a tie or when it is clear the vote of the President will affect the outcome of the issue.

**Section 2.** The Vice Presidents of Tlingit & Haida shall assist the President as called upon to do so. In the order of their designations they shall succeed to the office of the President upon the death, resignation or removal of the incumbent President and shall serve until the next Tribal Assembly at which an election to fill the vacancy shall be held.



In the absence of the President from a Tribal Assembly of Tlingit & Haida, the most senior designated Vice President available shall preside. Any of the Vice Presidents may attest acts of the President and, upon the designation of Tlingit & Haida, may serve as Secretary to Tlingit & Haida. It shall be the responsibility of the Vice President serving as Secretary at the time to see that an accurate record is kept of all actions taken and of business conducted by Tlingit & Haida or its officers. Records of Tlingit & Haida shall be available for inspection at the main office of the Council during business hours. The Vice President serving as Secretary shall promptly transmit copies of all minutes of assemblies and resolutions of Tlingit & Haida and its officers to each Tlingit and Haida Community Council and also, upon request, to any member citizen of the Tribe.

## **ARTICLE X. FUNCTIONS OF THE EXECUTIVE COUNCIL**

When the Tribal Assembly of Tlingit & Haida is not in session the Executive Council whether assembled or not shall possess all of the powers of Tlingit & Haida and shall be able to do all things and take all actions which the Tribal Assembly of Tlingit & Haida could without limitation, except that the Executive Council shall not have the power to take any action which would constitute a repudiation or negation of specific action taken by the Tribal Assembly of Tlingit & Haida at its last assembly nor to exercise the powers of the Tribal Assembly under Article XIII.

The Executive Council shall act by affirmative majority vote of its members. A quorum shall consist of a majority of those holding the office of Executive Council and no business shall be transacted unless a quorum is present. All assemblies shall be conducted in conformance with this *Constitution*, "Standing Rules of Order" adopted by Tlingit & Haida, and *Robert's Rules of Order*. Any conflict among the preceding authorities shall be resolved in the order of precedence set forth in the preceding sentence. The President may vote only to break a tie or when it is clear the vote of the President will affect the outcome of the issue.

The Executive Council shall take reasonable steps to hold its meetings in several of the Communities entitled to elect delegates to Tlingit & Haida.

## **ARTICLE XI. TRIBAL COURTS**

**Section 1.** Tlingit & Haida shall by statute establish and prescribe the functions of the Courts of the Tribe. The statute shall establish qualifications for the justices and judges of the Tribal Courts and provide for their election, provide for the employment of Court employees, and provide for rules of civil and criminal procedure and Court administration.

**Section 2.** The Tribal Courts shall be empowered to exercise all judicial authority of the Tribe but shall have only such jurisdiction as is delegated to the Tribal Courts by Tlingit & Haida.

**Section 3.** The Tribal Courts shall consist of a Tribal Supreme or Appellate Court and a Trial Court and such other courts as may from time to time be established by Tlingit & Haida.

**Section 4.** The Tribal Supreme or Appellate Court shall be comprised of a Chief Justice, and such number of Justices as from time to time may be deemed necessary by Tlingit & Haida in consultation with the Chief Justice and the Judiciary Committee.

**Section 5.** The Trial Court shall be comprised of two (2) Judges and such number of additional Judges as from time to time may be deemed necessary by Tlingit & Haida and the Judiciary Committee.

**Section 6.** The Chief Justice and each Trial Court Judge shall be elected at a duly convened annual meeting of the Tribal Assembly and shall serve for terms of not less than four (4) years and two (2) years respectfully. Tlingit & Haida shall by statute prescribe the method of election for Tribal Court Judges and Justices.

**Section 7.** A justice or judge of the Tribal Courts may be suspended or dismissed by the Judiciary Committee under procedures provided in statute, and then only for conviction of a felony while holding office, conviction of a crime involving moral turpitude within the previous five years, gross neglect of duty, malfeasance in office, or misconduct reflecting on the dignity and integrity of the Tribal Court.

**ARTICLE XII. BILL OF RIGHTS**

Tlingit & Haida, in exercising powers of self-government, shall not:

- a. Make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances;
- b. Violate the right of the people to be secure in their persons, houses, papers and effects against unreasonable search and seizures, nor issue warrants but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;
- c. Subject any person for the same offense to be twice put in jeopardy;
- d. Compel any person in any criminal case to be a witness against himself;
- e. Take any private property for 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 the accused, to have compulsory process for obtaining witnesses in favor of the accused, and at the expense of the accused to have the assistance of counsel in defense;

- g. Require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of six (6) months or a fine of \$500 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;
- 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 XIII. ADOPTION AND AMENDMENT**

This *Constitution* shall be in force and effect from the time of its adoption by vote of a majority of the delegates elected to the Tribal Assembly of Tlingit & Haida. It may be amended by vote of two-thirds of the delegates present at any assembly of Tlingit & Haida, except amendments proposed and distributed in writing to all delegates ninety (90) days before an assembly of Tlingit & Haida may be adopted by an affirmative vote of the majority of the delegates present at that assembly.

ADOPTED this 21<sup>st</sup> day of April 2017, by the Tribal Assembly of the Central Council of Tlingit and Haida Indian Tribes of Alaska.

**CERTIFY**

  
 \_\_\_\_\_  
 President Richard J. Peterson

**ATTEST**

  
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 Tribal Secretary Ralph Wolfe

**TRIBAL ASSMEBLY ADOPTED CHANGES:**

- April 14, 2004
- April 19, 2007
- April 19, 2008
- April 20, 2013
- April 12, 2014
- April 20, 2017
- April 21, 2017