

**CHAPTER I**  
**GENERAL PROVISIONS**

**Section 1. Title**

This Code shall be known as the “Minimum Commission Standards Act.”

**Section 2. Authority**

This Code is enacted pursuant to the inherent sovereign authority of the Kiowa Tribe and pursuant to the 2017 Constitution of the Kiowa Tribe, which empowers the Kiowa Legislature to “makes laws and resolutions in accordance with the requirements of the Constitution” (Article VI, §6(a)); to “monitor the actions of the government, access the needs of the People, and make laws toward better government to address the needs of the People” (Article VI, § 1); and to “establish regulatory Commissions by law” (Article VI, § 6(h)).

**Section 3. Purpose.**

This Code is enacted to provide general gap-fill provisions governing Commissions created by the Kiowa Legislature. Nothing herein shall restrict the Kiowa Legislature’s authority to enact procedures and provisions unique to specific Commissions.

**Section 4. Effective Date**

The provisions of this code shall be effective after ratification by the Kiowa Legislature, and upon the date signed by the Chairman of the Kiowa Tribe.

**Section 5. Interpretation**

The provisions of this Code shall be interpreted to be in accordance with tribal customary law. Whenever there is uncertainty or a question as to the interpretation of certain provisions of this Code, tribal law and custom shall be controlling, and where appropriate, may be based on the written or oral testimony of a qualified tribal elder, tribal historian, or tribal representative. If the traditions and customs of the Tribe are inconclusive in any matter, the Court shall construe it consistently with applicable textual tribal law. In the absence of applicable tribal customary law or textual tribal law, the Court may consult applicable federal law and state law if it may be helpful in establishing Kiowa law.

**Section 6. Applicability.**

The provisions of this Code apply only to the extent that they do not conflict with any other provision of law. To the extent that a provision of this Code conflicts with a Commission’s Organic Act, the Organic Act takes precedence on that subject matter.

**Section 7. Severability and Non-Liability**

If any section, provision, or portion of this Code is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Code shall not be affected thereby.

**CHAPTER II**

**DEFINITIONS**

**Section 1. General Definitions**

Any term not defined in this Section shall be given its ordinary meaning. The following terms, wherever used in this Code, shall be construed to apply as follows, except where the context indicates otherwise:

- (a) **“Commission”** means any governmental entity created by the Kiowa Legislature to conduct regulatory matters on behalf of the Kiowa Tribe, regardless of whether the entity is identified as a department, commission, agency, board, etc.
- (b) **“Organic Act”** means the Act of the Kiowa Legislature that created the subject Commission.

**CHAPTER III**

**ORGANIZATION OF COMMISSIONS**

**Section 1. Size of Commissions.**

Unless otherwise provided by law, each Commission shall be comprised of five (5) Commissioners.

**Section 2. Qualifications of Commissioners.**

To be eligible to serve as a Commissioner, an individual:

- (a) must be eighteen (18) years of age;
- (b) must be a citizen of the Kiowa Tribe;
- (c) shall not have an interest in any company or business that would be subject to regulation by the Commission; and
- (d) shall not be a member of the Kiowa Legislature or a Constitutional Officer of the Kiowa Tribe.

**Section 3. Appointment of Commissioners.**

Commissioners shall be appointed by the Chairman of the Kiowa Legislature to serve in two (2) year terms. A Commissioner's term shall not begin until their appointment is confirmed by a majority vote of the Kiowa Legislature.

**Section 4. Removal of Commissioners.**

(a) **Grounds for Removal.** Unless otherwise provided by law, a Commissioner may only be removed from their position of Commissioner on the following grounds:

- (1) Malfeasance, misfeasance, or nonfeasance of office;
- (2) conviction by any court of any crime involving moral turpitude; or
- (3) any other grounds as established by Kiowa Law.

(b) **Process.** The Kiowa Legislature shall have sole power to remove a Commissioner except as may be otherwise provided by law. Unless a different law provides otherwise, the process for the removal of a Commissioner by the Kiowa Legislature shall be as follows:

- (1) the Kiowa Legislature may recommend removal of a Commissioner from their position as Commissioner through passage of an official resolution setting forth the grounds for removal;
- (2) the Kiowa Legislature, after passage of the resolution outlined in subsection (a) of this Section, shall set a hearing date to consider the removal of the Commissioner and notify the alleged Commissioner in writing by certified mail, return receipt requested. The hearing shall occur no more than ninety (90) days after passage of the resolution outlined in subsection (a) of this Section, and the hearing notice shall occur no less than thirty (30) days before the hearing date;
- (3) at the hearing, the alleged Commissioner shall have the right to protest the removal and defend the allegations against him or her, including the right to cross-examine any witnesses who testify against him or her, and shall have the right to be represented by an attorney or other advocate licensed to practice law before the Kiowa Tribe's courts; and
- (4) after the presentation of evidence at the hearing, the Kiowa Legislature may remove the Commissioner from their position as Commissioner upon a majority vote.

**Section 5. Officers of Commissions.**

**(a) General.**

- (1) Each Commission shall elect officers by majority vote a Chairman, Vice Chairman, and Secretary, to serve as Officers of the Commission.
- (2) Nothing in this section limits the ability of a Commission to establish additional Officers for the Commission.
- (3) No Commissioner may hold more than one Office in a Commission.
- (4) Each Officer's term shall expire on the first day of January of the year following their election.
- (5) Any Officer may resign at any time without resigning from their position as a Commissioner.
- (6) A Commissioner may be removed from their role as an Officer pursuant to a majority vote of the Commissioners.
- (7) Any Officer vacancy shall be replaced by majority vote of the Commission.

**(b) Duties of Officers.**

- (1) **Annual Report.** The Officers of the Commission shall be responsible for providing an Annual Report of the Commission's activities to the Kiowa Legislature by the first day of January of each year covering the activities of the prior year. The report should explain the finances of the Commission, identify any current or future liabilities, and any other material required by Kiowa Law.
- (2) The Chairman shall:
  - (A) preside over all meetings of the Commission;
  - (B) decide the agenda of meetings of the Commission; and
  - (C) prudently preserve and faithfully execute the powers and duties of the Commission.
- (3) The Vice-Chairman shall, in the absence of the Chairman, faithfully perform the powers and duties of the Chairman.
- (4) The Secretary shall:

- (A) serve as custodian and historian of the Commission's records, including the keeping of appropriate meeting minutes for meetings of the Commission;
- (B) keep the seal of the Commission and ensure that use of the seal is authorized by the Commission and affixed to all documents, advertisements, promotions, and signage on behalf of the Commission; and
- (C) keep a current register of the mailing address, phone number, and electronic mail address of each Commissioner.

**Section 6. Employees of Commissions.** Commissions shall have the power and authority to employ such persons as may be necessary and proper for carrying out the purposes of the Commissions, subject to all applicable tribal employment laws and policies, and in accordance with the funds allocated to the Commission by the Kiowa Legislature.

## CHAPTER IV

### MEETINGS OF COMMISSIONS

**Section 1. Quorum.** At any meeting of the Commission, a majority of Commissioners shall constitute a quorum for the transaction of official business, and the act of a majority of Commissioners present at any meeting at which there is a quorum shall be an official act of the Commission.

**Section 2. Regular Commission Meetings.** Regular meetings of the Commission shall be held, at a minimum, quarterly to conduct official business of the Commission. Notice and agenda for a regular meeting shall be given at least forty-eight (48) hours in advance by posting on the Commission's webpage and providing a copy to the Kiowa Legislature.

**Section 3. Emergency Meetings.** Emergency meetings of a Commission may be called by the Chairman or at the request of a majority of the Commissioners. Emergency meetings may only be called to address time-sensitive matters, to prevent injuries to persons, or to prevent injuries to personal or real property, where time requirements for public notice would make such procedure impractical and increase the likelihood of injury or damage or immediate financial loss. Notice and agenda for an emergency meeting shall be given at least twenty-four (24) hours in advance by posting on the Commission's webpage and electronic mail to Commissioners at the addresses on file with the Secretary and providing a copy to the Kiowa Legislature.

**Section 4. Meetings Open to Citizens.**

- (a) All meetings of a Commission, regular and emergency, shall be held at specified times and places which are convenient to the citizens of the Kiowa Tribe, and shall be open to said citizens, except as hereinafter specified.
- (b) In all meetings of a Commission, the vote of each Commissioner shall be publicly cast and recorded.

**Section 5. Executive Sessions.**

- (a) A Commission may only enter into Executive Session for the following purposes:
  - (1) discussing the employment, hiring, appointment, promotion, demotion, disciplining or resignation of any officer or employee of the Commission;
  - (2) discussing negotiations concerning employees and representatives of employee groups;
  - (3) discussing the purchase or appraisal of real property;
  - (4) confidential communications between a Commission and its attorney concerning a pending investigation, claim, or action if the Commission, with the advice of the attorney, determines that disclosure will seriously impair the ability of the Commission to process the claim or conduct a pending investigation, litigation, or proceeding in the public interest;
  - (5) discussing any matter where disclosure of information would violate confidentiality requirements of tribal or federal law; or
  - (6) discussion of matters of public safety or the security of Commission records.
- (b) An executive session for the purpose of discussing the purchase or appraisal of real property shall be limited to Commissioners, the attorney for the Commission, and the immediate staff of the Commission. No landowner, real estate spokesperson, broker, developer, or any other person who may profit directly or indirectly by a proposed transaction concerning real property which is under consideration may be present or participate in the executive session.
- (c) To enter executive session, the Commission must strictly comply with the following procedures:
  - (1) The proposed executive session is noted on the meeting agenda;
  - (2) The executive session is authorized by a majority vote of a quorum of Commissioners present and the vote is a recorded vote; and

- (3) Any vote or action on any item of business considered in executive session shall be taken after the closing of executive session in the public meeting with vote of each member publicly cast and recorded.

## CHAPTER V

### FINANCES OF COMMISSIONS

**Section 1. Salaries of Commissioners.** The salaries and compensation of Commissioners, if any, shall be fixed by the Kiowa Legislature in the annual budget and shall be paid out in like manner as other salaries and compensation.

**Section 2. Employees of Commission.** The salaries and compensation of Commission employees shall be fixed by the Kiowa Legislature in the annual budget and shall be paid out in like manner as other salaries and compensation.

**Section 3. Authority to Contract.** Commissions shall have the authority to enter into contracts and make guarantees in accordance with the funds allocated to the Commission by the Kiowa Legislature.

**Section 4. Sovereign Immunity.**

- (a) The Kiowa Tribe is a sovereign Indian Nation that is immune from suit. Nothing in this Act waives or impairs the Kiowa Tribe's immunity from suit. As an instrumentality of the Kiowa Tribe, Commissions also enjoy immunity from suit except as expressly provided in Kiowa Law.
- (b) Commissions shall not have the authority to waive or otherwise impair the sovereign immunity of the Kiowa Tribe. The sovereign immunity of the Kiowa Tribe may only be waived, or otherwise impaired, pursuant to the provisions of Article X of the Kiowa Constitution of 2017.