

Chitimacha Tribe of Louisiana



Location: Southern Louisiana

Population: 950

Date of Constitution: 1970, as amended 2009 and 2010

PREAMBLE

We, the Chitimacha Indians of Louisiana, desiring to establish an organization for our common welfare and benefit, do hereby adopt and proclaim the following constitution.

ARTICLE I: NAME

The name of this organization shall be the Chitimacha Tribe of Louisiana.

ARTICLE II: TERRITORY

The jurisdiction of the Chitimacha Tribe of Louisiana shall extend to all lands now held, or hereafter acquired, by or for the Chitimacha Tribe.

ARTICLE III: MEMBERSHIP

SECTION 1. The membership of the Chitimacha Tribe shall consist of

- (a) All Chitimacha Indians living on the date of approval of this constitution,
 - (1) Whose names appear on the Annuity Pay Roll of 1926, Claim 374514, which was received and recorded by the Office of Indian Affairs on October 18, 1926, or the revised census roll of June 1959, of record at the Choctaw Indian Agency, Philadelphia, Mississippi, or
 - (2) Who are lineal descendants of such persons provided such descendants possess at least one-sixteenth (1/16) degree Chitimacha Indian blood and provided further, such descendants apply for membership and furnish birth certificates or other sufficient evidence to prove their ancestry.
- (b) Any child of one-sixteenth (1/16) degree or more Chitimacha Indian blood born to any enrolled member of the tribe after the approval of this constitution shall be entitled to membership.

SECTION 2. The tribal council shall have the power to correct the membership roll, with the approval of the Secretary of the Interior, at any time.

SECTION 3. The burden of proof rests upon the applicant to establish his eligibility for enrollment.

SECTION 4. Enrollment Ordinances. The tribal council shall have the power to pass ordinances, subject to the approval of the Secretary of the Interior, governing future membership, loss of membership, and the adoption of new members, provided that no person of less than one sixteenth (1/16) degree Chitimacha Indian blood shall be admitted to membership in the Chitimacha Tribe of Louisiana.

ARTICLE IV: ASSIGNMENT OF TRIBAL LANDS

SECTION 1. The members of the Chitimacha Tribe now occupying home sites on tribal land may continue to occupy such as their home sites, the remaining acreage to be available for present and future assignments. The use and assignment of tribal land shall be in accordance with an ordinance enacted by the tribal council, which shall be subject to approval of the Secretary of the Interior.

SECTION 2. Upon the death of any member, male or female, now married to a non-Indian, the home site of such member shall continue to be occupied by the non-Indian husband or wife until said non-Indian person's death, provided that this non-Indian person does not remarry a non-Indian. Should he or she remarry a non-Indian, the assignment shall be canceled, but any improvements accumulated on the land during the marriage of the non-Indian and the member of the Chitimacha Tribe or during the occupancy by said non-Indian after the death of the spouse, may be appraised and sold, the proceeds to be paid to the surviving spouse, or such improvements may be removed from the land in accordance with the land assignment ordinance.

SECTION 3. Upon the death of any member or non-Indian surviving spouse who did not remarry, the home site and improvements may continue to be occupied by the heirs or assignees, provided they qualify for membership in the tribe.

ARTICLE V: GOVERNING BODY

SECTION 1. Composition. The governing body of the Chitimacha Tribe shall be the Chitimacha Tribal Council, a five-member body composed of a chairman, vice-chairman and secretary- treasurer, who reside on the Chitimacha Reservation, and two (2) councilmen, all of whom shall be elected at large by the qualified voters of the Chitimacha Tribe.

SECTION 2. Qualifications. All officers and councilmen (members of the council) must be at least twenty-one (21) years of age and members of the tribe. If either the chairman, vice-chairman, or secretary-treasurer moves his residence from the reservation, he shall automatically lose his office. Such vacancy shall be filled pursuant to Article VI, Section 6.

SubSECTION 3. Forfeiture of Office.

- (a) All Council Persons (members of the Tribal Council) shall immediately forfeit and be removed from their office upon the occurrence of any of the following actions:
- (1) A final conviction of any crime or offense under:
 - a. the Major Crimes Act (18 USCA 1153, et seq.); or
 - b. the General Crimes Act (18 USCA 1152, et seq.); or
 - c. the Assimilative Crimes Act (18 USCA 13); or
 - (2) A violation of the Tribe's established Drug and Alcohol Personnel Policy (as approved by the Tribal Council) and specifically involving a final determination of a finding of a positive test result for a substance that is illegal for the subject to possess or use under applicable Federal laws or within the State of Louisiana, which drug testing policy, under no circumstances, shall be made inapplicable to Tribal Council members; or
 - (3) A willful refusal to submit to an appropriate drug or alcohol test.
- (b) A Tribal Council Member appealing from a conviction of an offense listed in Paragraph A (1) above or from a finding of violation as described in Paragraph A. (2) above shall be suspended from all Tribal duties and obligations pending the outcome of the final appeal.
- (c) Any time that a Council Person receives notice of a finding of positive from a test for an illegal substance in accordance with Article V, Subsection 3, Sub-paragraph 2 above, that Council Member shall be given a period of 10 working days from the receipt of said notice to request a hearing before the other four (4) Tribal Council Persons in order to seek reversal of the finding. Should the affected Council Person fail to request such a hearing within the required time period, the results shall be considered final. Should the affected Council Person request such a hearing: (i) that hearing must be held within thirty (30) days of the request; (ii) the sole reason for the reversal of the test result shall be the inaccuracy of the test; (iii) the affected Council Person shall bear the burden of proving the inaccuracy of the test results; (iv) the affected Council Person shall bear any costs associated with the hearing; (v) all testimony at the hearing shall be sworn and all documents properly authenticated; (vi) the vote of three (3) of the other four (4) Council Members shall be required to reverse the test results; and (vii) the decision of the Tribal Council shall be final.

ARTICLE VI: ELECTIONS

SECTION 1. Annual elections shall be held on the second Saturday in June to fill vacancies on the council resulting from the expiration of the two-year terms of office. Officers and councilmen, hereinafter referred to as members of the tribal council, shall be elected by secret ballot. A majority of those voting shall be necessary to effect election.

SECTION 2. Entitlement to vote. Any tribal member, male or female, eighteen (18) years of age or over, shall be entitled to vote in any election, except in elections to adopt or amend

this constitution. Participation in elections to adopt or amend this constitution shall be limited to those who are twenty-one (21) years of age or older. No person shall be permitted to vote in any election unless he is duly registered.

SECTION 3. Election Ordinance. The tribal council shall enact an ordinance governing the conduct of tribal elections and referendums, provided that such election ordinance shall provide for voter registration, secret balloting, absentee voting, and procedures for settling election disputes.

SECTION 4. First Election. Within four (4) months after the approval of this constitution, the chairman of the present council shall call a special election for the purpose of electing the members of the tribal council. The present council shall appoint an election board of three (3) persons to supervise the first election of members of the tribal council under this constitution. The board shall prescribe rules and regulations for conducting such election, which shall be by secret ballot. After the first election, the members of the tribal council shall be elected in accordance with Section 3 of this Article.

SECTION 5. Terms of Office. The newly elected members of the tribal council shall be installed in office on the first day of the month immediately following the election, or as soon thereafter as practicable, and shall hold office for a term of two (2) years and until their successors are duly elected and installed. In the first election following the effective date of this constitution, the chairman and vice chairman shall be elected to serve until the installation following the 1973 election. The remaining members of the council shall serve until those elected in 1972 are installed. Thereafter, there shall be annual elections during the month of June and all members of the council shall be elected for two (2) year terms. The chairman and vice-chairman's terms shall expire in the odd numbered years, while terms of the other three (3) council members shall expire in even numbered years.

SECTION 6. Vacancies. If a vacancy occurs in the membership of the tribal council, that body shall by majority vote fill such vacancy by appointing a tribal member, qualified pursuant to Article V, to serve until the expiration of that term of office.

ARTICLE VII - POWERS OF THE TRIBAL COUNCIL

SECTION 1. Enumerated Powers. The Tribal Council of the Chitimacha Tribe shall have the following powers subject to any limitations imposed by the Statutes or the Constitution of the United States:

- (a) To negotiate with the Federal, State, and local governments.
- (b) To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior.

- (c) To manage, acquire or dispose of, lease, encumber or use tribal lands, interest in lands, tribal funds or other tribal assets, subject to approval of the Secretary of the Interior.
- (d) To veto any sale, disposition, lease or encumbrance of tribal lands, interests in land, tribal funds, or other tribal assets.
- (e) To advise the Secretary of the Interior with regard to all appropriation estimates or Federal projects for the benefit of the Chitimacha Indians prior to the submission of such estimates, to the Office of Management and Budget and to Congress.
- (f) To appropriate any available tribal funds for the benefit of the tribe.
- (g) To supervise and manage tribal economic affairs and enterprises in accordance with this constitution and a corporate charter which may be issued by the Secretary of the Interior.
- (h) To pass and enforce ordinances and rules and regulations which shall be subject to the approval of the Secretary of the Interior, providing for the management of tribal lands or other tribal assets, including the making and revoking of assignments, disposition of timber, oil and mineral resources, except that this article shall not conflict or interfere in any way with the provisions of Article IV.

ARTICLE VIII: REFERENDUM

Upon receipt of a petition signed by twenty percent (20%) of the registered voters of the Chitimacha Tribe, or upon request of a majority of the members of the tribal council, any enacted or proposed ordinance or resolution of the council shall be submitted to popular referendum, and the vote of the majority of the registered voters, voting in such referendum, conducted pursuant to Section 3, Article VI, shall be conclusive and binding upon the tribal council.

ARTICLE IX - BILL OF RIGHTS

The protections guaranteed to individual tribal members by Title II of the Civil Rights Act of 1968 (82 Stat. 77) against actions of a tribe in exercising its powers of self-government, shall apply where appropriate to members of the Chitimacha Tribe of Louisiana.

ARTICLE X - AMENDMENTS

SECTION 1. This constitution may be amended by a majority of the registered voters of the Chitimacha Tribe, as provided in Section 2 of Article VI, voting in an election authorized for that purpose by the Secretary of the Interior or his authorized representative, provided that at least thirty percent (30%) of those entitled to vote shall cast ballots in such election; but no amendment shall become effective until it is approved by the Secretary of the Interior. Such election shall be conducted pursuant to the Secretary's regulations.

SECTION 2. It shall be the duty of the Secretary of the Interior to authorize an election on any proposed amendment at the request of the councilor upon receipt of a petition signed by one-fourth (1/4) of the registered voters of the Chitimacha Tribe who are twenty-one (21) years of age or over.

BYLAWS OF THE CHITIMACHA TRIBE OF LOUISIANA

ARTICLE I: DUTIES OF OFFICERS

SECTION 1. The chairman shall preside over all meetings of the council. He shall perform the usual duties of a chairman and exercise any authority delegated to him by the council.

SECTION 2. The vice-chairman shall assist the chairman when called upon to do so and in the absence of the chairman he shall preside over the meeting. When presiding, he shall have all the rights, privileges, duties and responsibilities of the chairman.

SECTION 3. Secretary-treasurer of the council shall conduct all tribal correspondence, and shall keep an accurate record of all matters transacted at council meetings. It shall be his duty to submit promptly to the Superintendent, copies of all minutes of regular and special meetings of the council. He shall accept, receipt for, preserve and safeguard all tribal funds coming into his custody by virtue of his office. He shall deposit all funds in such depository as the council shall direct. He shall make and preserve a faithful record of such funds and shall report all receipts and expenditures and the amount and nature of all funds in his custody at each meeting of the tribal council. An audit of accounts shall be made at such time as the tribal council or the Commissioner of Indian Affairs may require. All checks drawn upon tribal funds must bear the signature of the chairman and the secretary-treasurer. Neither shall disburse any funds except by resolution of the council. The secretary-treasurer shall receive a salary of \$1.00 per year or such other sum as the tribal council may direct. He shall be required to give bond satisfactory to the council and to the Commissioner of Indian Affairs. The cost of the bond shall be paid out of tribal funds.

SECTION 4. The duties of all committees or boards appointed by the tribal council shall be defined by resolution of the council at the time of their creation or appointment. Such committees and boards shall report to the council from time to time as required, and their activities and decisions shall be subject to review by the council.

ARTICLE II: MEETINGS

SECTION 1. Meetings of the tribal council may be called by the chairman at his discretion and must be called by him upon request of a majority of the council. Ten days' notice of meetings must be given by the chairman in the manner determined by the tribal council. The notice shall state the purpose of the meeting.

SECTION 2. General Tribal Meeting. A regular general tribal meeting shall be held each year on the second Saturday in June. Special general tribal meetings may be called at the discretion of the chairman of the tribal council and must be called by him upon a petition signed by at least twenty percent (20%) of those members entitled to vote at tribal elections. The chairman of the tribal council, or in his absence the vice-chairman, shall preside at all general tribal meetings. The meeting shall be widely noticed ten days in advance. The purpose of the meeting shall be included in the notice. A majority of the adult members present shall decide on issues considered.

SECTION 3. Quorum A majority of the full membership of the tribal council, i.e., three (3) of the five (5) members, shall constitute a quorum for the transaction of any tribal business.

SECTION 4. Conduct of Meetings. The tribal council shall conduct its meetings according to Robert's Rules of Order except when such rules are in conflict with this constitution.

ARTICLE III: ADOPTION

This constitution was drafted November 22, 1969, by the following council members: Chairman Leonard Stouff, Vice-Chairman Leroy Burgess, Secretary-Treasurer Leslie Proctor, Councilman Alvin Vilcan, and Councilman Archie Vilcan. When adopted by a majority vote of the registered voters of the Chitimacha Tribe voting in a special election authorized by the Secretary of the Interior in which at least thirty percent (30%) of those entitled to vote shall vote, shall be submitted to the Secretary of the Interior for his approval and shall be in force from the date of such approval in accordance with Section 16 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 amended on September 24, 2008, through Resolution CHI-TC #53-08, by the following Council Members: Chairman Lonnie L. Martin, Vice-Chairman Tricia Mora, Councilman Jules Darden, and Councilman Nikina Vilcan, and adopted by a majority vote of the registered voters of the Chitimacha Tribe voting in a general election authorized by the Secretary of the Interior in which at least thirty percent (30%) of those entitled to vote did vote, and was submitted to the Secretary of the Interior for his approval and is in force from the date of such approval, that being July 21, 2009, in accordance with Article X - AMENDMENTS of the CONSTITUTION AND BYLAWS OF THE CHITIMACHA TRIBE OF LOUISIANA; and amended on August 20, 2009, through Resolution CHI-TC #41-09, by the following Council members: Vice-Chairman John Paul Darden, Secretary-Treasurer Tasia Burgess, Councilman Jules Darden, and Councilman Nikina Vilcan, and adopted by a majority vote of the registered voters of the Chitimacha Tribe voting in a general election authorized by the Secretary of the Interior in which at least thirty percent (30%) of those entitled to vote did vote, and was submitted to the Secretary of the Interior for his approval and is in force from the date of such approval, that being July 4, 2010, in accordance with Article X - AMENDMENTS of the CONSTITUTION AND BYLAWS OF THE CHITIMACHA TRIBE OF LOUISIANA.

CERTIFICATE OF RESULTS OF ELECTION

Pursuant to an election authorized by Acting Associate Commissioner, Flore Lekanof of Indian Affairs on June 23, 1970, under delegated authority, the attached Constitution and By-Laws of the Chitimacha Indians of Louisiana was submitted to the qualified voters of the Tribe and was on November 7, 1970 duly adopted by a vote of 85 for, and 6 against, in an election in which at least 30 percent of the 139 members entitled to vote cast their ballots in accordance with Section 16 of the Indian reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 378).

John F. Gordon, Chairman, Election Board

Emile Stouff, Election Board Member

Lester Darden, Election Board Member

CERTIFICATE OF RESULTS OF ELECTION – AMENDMENT TO ARTICLE V

Pursuant to an election authorized by Acting Director of the Eastern Regional Office, Scott Meneely, of the Bureau of Indian Affairs on May 28, 2009, under delegated authority, the amendment affixed to Article V being Subsection 3. Forfeiture of Office to the Constitution and Bylaws of the Chitimacha Indians of Louisiana was submitted to the qualified voters of the Tribe and was on June 13, 2009, duly adopted by a vote of 165 for, and 56 against, in an election in which at least thirty percent (30%) of the 528 members entitled to vote cast their ballots in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 378).

Ann Kimberly Cook, Chairperson, Election Board

Ashley Boudreaux, Secretary, Election Board

April Wyatt, Election Board Member

Brittany Martin, Election Board Alternate

CERTIFICATE OF RESULTS OF ELECTION – AMENDMENT TO ARTICLE III

Pursuant to an election authorized by Director of the Eastern Regional Office, Franklin Keel, of the Bureau of Indian Affairs on March 12, 2010, under delegated authority, the amendment affixed to Article III being Section 1. to the Constitution and Bylaws of the Chitimacha Indians of Louisiana was submitted to the qualified voters of the Tribe and was on June 12, 2010, duly adopted by a vote of 159 for, and 91 against, in an election in which at least thirty percent (30%) of the 554 members entitled to vote cast their ballots in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 378).

Ann Kimberly Cook, Chairperson, Election Board

April Wyatt, Secretary, Election Board

Brittany Martin, Election Board Member

Rebecca Anderson, Election Board Alternate

APPROVAL

I, Harrison Loesch, Assistant Secretary of the Interior of the United States of America, by virtue of the authority granted to me by the Act of June 18, 1934 (48 Stat. 984), as amended, do hereby approve the attached Constitution and Bylaws of the Chitimacha Tribe of Louisiana.

Approval Recommended:

(Sgd.) Flore Lekanof, Acting Commissioner of Indian Affairs

(Sgd.) Harrison Loesch, Assistant Secretary of the Interior

Washington, D.C.

Date: Jan. 14, 1971

APPROVAL - AMENDMENT TO ARTICLE V

I, Franklin Keel, Regional Director, Eastern Regional Office, Bureau of Indian Affairs, by virtue of the authority granted to the Secretary of the Interior by the Act of June 18, 1934 (48 Stat. 984), as amended, and further delegated to me by 3 IAM 4.4, do hereby approve Exhibit I, now designated as "Subsection 3", to the Constitution and Bylaws of the Chitimacha Tribe of Louisiana. This amendment is effective as of this date: PROVIDED that nothing in this approval shall be construed as authorizing any action under this document that would be contrary to Federal law.

(Sgd.) Robert Impson for Regional Director

Date: July 21, 2009

APPROVAL - AMENDMENT TO ARTICLE III

I, Franklin Keel, Regional Director, Eastern Regional Office, Bureau of Indian Affairs, by virtue of the authority granted to the Secretary of the Interior by the Act of June 18, 1934 (48 Stat. 984), as amended, and further delegated to me by 3 IAM 4.4, do hereby approve Exhibit I, Article III- Membership, Section 1(a)(2), to the Constitution and Bylaws of the Chitimacha Tribe of Louisiana. This amendment is effective as of this date: PROVIDED that nothing in

this approval shall be construed as authorizing any action under this document that would be contrary to Federal law.

(Sgd.) Franklin Keel, Regional Director

Date: July 4, 2010