

CONSTITUTION

OF THE

CATAWBA INDIAN NATION



Catawba Indian Nation
996 Avenue of the Nations
Rock Hill, South Carolina 29730

PREAMBLE

Since time immemorial the Catawba, known as “Iswa” (meaning river), have lived in the Piedmont region of North and South Carolina along the Catawba River. The tradition of pottery making among the Catawba, unchanged since before recorded history, links the lives of modern Catawba to our ancestors and symbolizes our connection to the earth and to the land and river we love. In ancient times, the Catawba lived off the land and the river, hunting for game, fishing for shad, eels, and other fresh water species, and farming corn, beans, and squash. No less today, the sovereignty of the Catawba Indian Nation and our survival as a distinct people upon the earth is tied to our lands and the river. Like our pottery, the Catawba people have been created from the earth and have been shaped and fired over time. The Catawba have survived many hardships to provide a living testament to our ancestors and to this place we call home.

The Catawba are a spiritual people. In ancient times, the Catawba worshipped "He-Who-Never-Dies" (Wahrowe/God/Creator). Temple structures were an important feature of Catawba villages. In modern times, the Catawba remain a spiritual people, closely tied to the divine.

The Catawba are a warrior people. The ferocious aspect of Catawba warriors, with a black circle painted around one eye and a white circle around the other, struck fear into the heart of our enemies. The warrior spirit lives on in the Catawba people and in our efforts to sustain the Nation, its culture, and its land.

The Catawba are a generous and hospitable people. During the 1700s, the Catawba welcomed smaller tribes, including former enemies, which had been devastated by imported diseases and conflicts with European colonists. This spirit of generosity lives on today within the homes of the Catawba people.

The Catawba are faithful allies of the United States of America, having fought by the side of the American colonies in their revolution against the British and having contributed warriors to serve in defense of the United States in many wars since.

The Catawba world was transformed by contact with European explorers and colonists. The Catawba's first encounters with Europeans were with the Spanish explorer Hernando de Soto in 1540 and then with Juan Pardo in 1566. The Europeans brought guns, which made hunting easier, but they also brought disease, including small pox, which repeatedly decimated the Nation. Encroachment by settlers reduced Catawba lands. In 1760, Catawba entered into the Treaty of Pine Tree Hill with the British authorities. This treaty was skillfully negotiated by King Hagler and allowed the Nation to retain 2 million acres of land and hunting rights with a promise from the state of South Carolina to remove any settlers encroaching on the land. The Treaty of Pine Tree Hill, however, was not implemented. In 1763, the Treaty of Augusta was signed with land rights to 144,000 acres decreed to the Nation by the King of England. Although the Catawba honored the treaty, the government of South Carolina and white settlers did not, encroaching further upon Catawba land such that by 1826 only a small number of Catawba people remained, occupying one square mile.

At the Treaty of Nations Ford in 1840, the state of South Carolina sought to address the issue of Catawba landholdings in South Carolina by negotiating the sale of Catawba lands with a promise of other lands and monies. The Treaty of Nation Ford, although not valid under federal law, had the immediate effect of further disenfranchising the Catawba from their ancestral lands. Many attempted to live among the Cherokee, but in the end most returned to reside on a scant 600 acres of their former lands.

Neither the state of South Carolina nor the United States of America understood the twin pillars of Catawba strength: first, our deep spirituality and connection to the land of our ancestors; and, second, our warrior spirit. In the 1970s, over 130 years after the Treaty of Nation Ford, the Catawba filed a petition with the federal government seeking a restoration of the government-to-government relationship between the Catawba and the United States. Two decades later, prompted by a desire to settle Catawba land claims arising out of the illegitimate Treaty of Nation Ford, Congress passed the Catawba Indian Land Claims Settlement Act, restoring federal recognition to the Catawba Indian Nation, recognizing the Catawba Indian Nation's sovereignty, and paying partial recompense for the losses imposed upon the Catawba people.

The Catawba battle to retain our sovereignty, to hold close our lands, and to maintain our community continues. It is for this reason that we make the following declaration.

We, the people of the Catawba Indian Nation, in order to establish an effective tribal organization, to improve our social and economic welfare, to preserve our lands and cultural identity, to promote political integrity in our government and harmony among our people, to ensure the equality of all tribal citizens, and to secure the benefits of organization for ourselves and our posterity do hereby proclaim and establish this Constitution of the Catawba Indian Nation. As a Nation, our people have come together to engage in sincere reflection and earnest deliberation to adopt a Constitution that reflects the common will, values, and vision of our people, that allows us to make community decisions, resolve our disputes, and chose our own direction, and that helps us to stay a united people.

In doing so we reaffirm our existence as a self-governing Nation since time immemorial. The people of the Catawba Indian Nation, desiring to reaffirm our claim to our sovereign rights, proclaim this Constitution as a statement of the principles of government, which shall guide our future and by which we will exercise our powers of self-government for our common welfare.

The Catawba proclaim that the official name of the Nation is the “Catawba Indian Nation.”

ARTICLE I – TERRITORY AND JURISDICTION

Section 1. Territory

Our homelands, which sustained the lives of our forebears, and to which they and we have returned for refuge and rest, lie generally throughout the southeastern United States and particularly within the region now known as the states of South Carolina, North Carolina, and Virginia. These homelands include, without limitation, the lands within the boundaries

established by the Treaty of Pine Tree Hill of 1760, the Treaty of Augusta of 1763, and the Treaty of Nation Ford of 1840.

The territory of the Catawba Indian Nation shall extend to the maximum extent allowable under federal law over all lands that qualify as the Nation's Indian country, as that term is defined in 18 U.S.C. § 1151. This includes lands within the boundaries of the present 710.73 acre reservation in York County, South Carolina and the 295.8 acre Green Earth Reservation. It also includes such other lands as the United States may acquire for the benefit of the Nation or the individual citizens of the Nation and such other lands as the Nation may acquire for itself within the boundaries of its reservations.

Service areas of the Nation currently include all counties within the state of South Carolina as well as Cabarrus, Cleveland, Gaston, Mecklenburg, Rutherford, and Union counties within the state of North Carolina.

Section 2. Jurisdiction

The Catawba Indian Nation shall have jurisdiction to the fullest extent of its sovereign power over all persons, subjects, property, and activities occurring within or without the boundaries of the territory defined by this Article. This includes jurisdiction over airspace, surface rights, subsurface rights, natural resources, tenements, hereditaments, water rights, and accretions, including notably the watershed of the Catawba River.

Section 3. Treaty Rights Not Restricted

Nothing in this Article or this Constitution shall be construed as restricting any treaty rights, nor any other rights, of the Nation and its citizens.

Section 4. Savings Clause

Any rights or powers heretofore vested in the Catawba Indian Nation and not expressly referred to in this Constitution shall not be lost by their omission, but rather they may be exercised by the General Council or by the adoption of appropriate amendments to the Constitution.

ARTICLE II – CITIZENSHIP

Section 1. Eligibility for Citizenship

The citizenry of the Catawba Indian Nation shall consist of individuals: (1) who are of Catawba blood; and (2) whose name appears on the tribal rolls of July 1, 1943, February 25, 1961, or July 24, 2000. It shall also include such individuals' direct blood descendants.

Section 2. Power to Determine Citizenship Application Procedures

The General Council of the Catawba Indian Nation shall have sole authority to establish procedures for processing citizenship applications through the enactment of a Citizenship Ordinance in accordance with Section 3 of this Article. The Executive Committee shall have authority to review, verify, and approve or reject applications for citizenship. No decree of any court, other than the Nation's Tribal Court, purporting to determine citizenship in the Catawba Indian Nation, paternity, or degree of Catawba blood shall be recognized as a determination of

citizenship in the Catawba Indian Nation.

Section 3. Citizenship Ordinance

The General Council shall enact an ordinance to establish procedures for processing citizenship matters within two years of the adoption of this Constitution. The Citizenship Ordinance shall include, but is not limited to:

- (a) Criteria to demonstrate an individual meets the requirements of Catawba citizenship in accordance with Section 1 of this Article;
- (b) Procedures to apply for citizenship;
- (c) Procedures to verify citizenship;
- (d) Procedures to make determinations regarding challenges to citizenship in accordance with Section 4 of this Article;
- (e) Procedures to update the Tribal Roll in accordance with Section 4 of this Article; and
- (f) Provision of appeal within 90 days to the Tribal Court, once established, of decisions of the Executive Committee on questions of citizenship by any person whose application for Catawba citizenship is denied or revoked.

Section 4. Terms and Conditions for Changes to the Tribal Roll

The Tribal Roll shall be adjusted from time to time to reflect births, deaths, and omissions in accordance with the procedures established by the Citizenship Ordinance. The Secretary shall oversee the updates to the Tribal Roll and ensure the Tribal Roll is updated regularly.

At no time shall any tribal citizen be removed or suspended from the Tribal Roll of the Nation except in cases where DNA proof is provided to show that a person does not meet the citizenship requirements in Section 1 of this Article and therefore was placed on the Tribal Roll incorrectly. The burden of proof to remove a person from the Tribal Roll shall be on the Nation.

Section 5. Rights of Citizens

- (a) Citizens of the Catawba Indian Nation shall be entitled to the following rights:
 1. All rights and privileges of citizenship in the Catawba Indian Nation as provided in this Constitution;
 2. The right to equal opportunity to participate in the economic resources and activities of the Catawba Indian Nation;
 3. The right to access and inspect official records of the Catawba Indian Nation, except for records that:
 - i. Include confidential information on another tribal citizen or other individual, except when access is required by law or pursuant to a court order;
 - ii. Are expressly made confidential by ordinance for the purpose of protecting citizens' personal privacy or the business or trade secrets of the Nation or its entities;
 - iii. Are expressly made confidential under federal or state law;
 - iv. Are protected under attorney-client privilege or attorney work product; or
 - v. Would be privileged or confidential if they were records of the federal government.

- (b) The General Council, Executive Committee, and all other law-making entities of the Catawba Indian Nation shall make no law that:
1. Prohibits or unduly limits the free exercise of religion, speech, the press, or the right of the people to peacefully assemble and petition the government and elected officials;
 2. Violates the right of the people to be secure in their persons, houses, papers, or effects against unreasonable search and seizures, or provides for the issuance of warrants except upon probable cause supported by oath or affirmation describing the particular place to be searched and person or thing to be seized;
 3. Subjects any person to double jeopardy or compels any person in any criminal case to be a witness against himself or herself;
 4. Takes any private property for public use without due process and just compensation;
 5. Denies any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature of the accusation, to confront the witnesses against him or her (except that the Tribal Court may take all measures permissible under federal and tribal law to protect witnesses who are under 18 years of age), or to have the assistance of counsel for his or her defense at his or her own cost;
 6. Requires excessive bail, imposes excessive fines, or inflicts cruel and unusual punishment;
 7. Denies a person the equal protection of law or deprives any person of liberty or property without due process;
 8. Passes any bill of attainder or ex post facto law; or
 9. Denies any person accused of an offense punishable by imprisonment the right to a trial by jury of not less than six jurors, upon request.

ARTICLE III – ORGANIZATION OF GOVERNMENT

The government of the Catawba Indian Nation shall include a General Council, an Executive Committee, and a Tribal Court. The General Council shall operate in accordance with Article IV, the Executive Committee shall operate in accordance with Article V, and the Tribal Court shall operate in accordance with Article VI. No branch shall exercise any powers beyond those explicitly granted to it in this Constitution nor have authority over the others except as granted by this Constitution.

ARTICLE IV – THE GENERAL COUNCIL

Section 1. Definition

The General Council is composed of the citizens of the Catawba Indian Nation who are of qualified voting age. Qualified voting age is defined as 18 years of age or older on the date of the meeting or election in which the citizen is participating. Voters need not register to vote.

Section 2. Powers and Duties

- (a) The General Council of the Catawba Indian Nation has the sole power to:
1. Elect tribal officials;
 2. Recall and remove elected tribal officials in accordance with Article VIII, Section 3 of this Constitution;
 3. Exercise the powers of initiative and referendum to approve, amend, or repeal proposed or previously enacted ordinances, laws, codes, or resolutions in accordance with Article VIII, Sections 1 and 2 of this Constitution;
 4. Make advisory recommendations to the Executive Committee;
 5. Enact and amend a Citizenship Ordinance in accordance with Article II, Section 3 of this Constitution;
 6. Enact and amend an Election Ordinance in accordance with Article VII, Section 3 of this Constitution;
 7. Elect members of the Election Board in accordance with Article VII, Section 2 of this Constitution;
 8. Enact and amend an Ethics Ordinance in accordance with Article VI, Section 8 of this Constitution;
 9. Elect members of the Ethics Committee in accordance with Article VI, Section 7 of this Constitution;
 10. Form, reform, and elect members of any other auxiliary committees or boards to represent the will of the General Council; and
 11. Amend this Constitution in accordance with Article IX of this Constitution.
- (b) Subject to the restrictions in Sections 1, 2, and 3 of this Article, and through its power of initiative as described in Article VIII, Section 1, of this Constitution, the General Council has reserved power to approve all actions of the Executive Committee or to delegate specific authority to the Executive Committee to take particular actions, prior to any such action of the Executive Committee becoming effective, that result in:
1. Any appropriation or budgeting of money of the Catawba Indian Nation held in trust as the proceeds or settlement of a claim against the United States or any state, including interest thereupon;
 2. The sale of any of the Nation's trust lands or an interest in such lands or the placement of any encumbrance or mortgage on any such lands; or
 3. Approval of any settlement or amendment to any settlement of the Catawba Indian Nation against the United States or any state.

Section 3. Meetings

- (a) Regular General Council Meetings.
1. The General Council shall meet in regular meetings four times a year, and these meeting shall take place on a Saturday in January, April, July, and October. Notice of the date of a regularly scheduled General Council meeting shall be given at least 30 days in advance of the meeting. The proposed dates for the following year's regularly scheduled General Council meetings may be set and announced at the October General Council meeting.
 2. At the next General Council meeting following the end of the fiscal year, the Executive Committee shall present an accounting of the financial status of the

Catawba Indian Nation, including the tribal general funds, any enterprise and special revenue funds, and any other funds or accounts, as well as the budget for the upcoming fiscal year. At the next General Council meeting following the completion of the yearly audit, the Executive Committee shall present the audit report. The General Council shall not be required to approve these financial documents.

(b) Special Meetings of the General Council.

1. A majority of the members of the Executive Committee may call a special meeting of the General Council upon a motion. The Executive Committee must give 15 days notice to the General Council before holding a special meeting.
2. The Chief may call a special meeting of the General Council upon his or her own motion. The Chief must give 15 days notice to the General Council before holding a special meeting.
3. The Executive Committee must call a special meeting of the General Council within 30 days at the request of the Election Board when presented with a properly verified petition signed by eight percent of the General Council. The Executive Committee must give 15 days notice to the General Council before holding a special meeting. The Executive Committee must provide notice to the General Council within 15 days after the Election Board presents it with a petition so that it can hold the special meeting within 30 days of the request.

Section 4. Procedures

(a) Order.

1. The Chief shall preside at all regularly scheduled and special General Council meetings. If the Chief is absent, the Assistant Chief shall preside at such meetings.
2. The General Council shall pass Rules of Order to govern its meetings so long as they do not conflict with any provision of this Constitution.

(b) Agendas.

1. The agenda for General Council meetings shall be set by the Executive Committee. Any citizen may submit items to the Executive Committee in writing for consideration to be included on General Council meeting agendas. Any such request must be submitted 15 calendar days before the date of the scheduled meeting. Agendas must also include time for discussion of items brought from the floor regardless of whether such items appear on the agenda.
2. The agenda must be available to individual citizens upon request and posted at a public place at tribal government offices no less than 10 calendar days before the General Council meeting.

(c) Voting Requirements for General Council Meetings.

1. A quorum shall consist of five percent of the General Council. Provided that a quorum is present, all votes taken by the General Council shall be decided by a simple majority.
2. The election of Executive Committee members, initiatives, referenda, recalls, removals, and amendments to this Constitution have distinct voting requirements as set forth in this Constitution.

ARTICLE V – THE EXECUTIVE COMMITTEE

Section 1. Definition

The Executive Committee of the Catawba Indian Nation shall consist of a Chief, Assistant Chief, Secretary, Treasurer, and three at-large members elected by the General Council to terms of four years each, except as provided in Article VII and Article X, Section 2 of this Constitution. Each member of the Executive Committee shall continue to serve until his or her successor is duly elected and installed.

Section 2. Powers and Duties of Officers of Executive Committee

(a) Chief.

1. The Chief shall be the Chief Executive Officer of the Catawba Indian Nation and is responsible for implementing and executing the laws, ordinances, resolutions, and other enactments of the Executive Committee and the General Council.
2. The Chief shall exercise any lawful authority delegated by the Executive Committee or the General Council.
3. The Chief shall preside at all meetings of the Executive Committee and the General Council.

(b) Assistant Chief.

1. The Assistant Chief shall assist the Chief in the exercise of any delegated authority, duties, and responsibilities and shall preside at any meetings in the absence of the Chief.

(c) Secretary.

1. The Secretary shall be responsible for recording minutes of all Executive Committee and General Council meetings, keeping records of resolutions and ordinances passed in all such meetings, and preparing and maintaining all the records and files of the Catawba Indian Nation, other than financial records, in a timely manner. Records should be reviewed and updated at the next scheduled meeting.
2. The Secretary shall be responsible for ensuring that records of meetings are open to inspection by citizens of the Nation with 48 hours notice and during normal business hours of the government.
 - i. Official records of the Catawba Indian Nation shall be kept in a location designated by the Executive Committee and made known to the General Council.
 - ii. A copy of the records associated with all official actions of the Executive Committee and the General Council as well as documents associated with the Tribal Roll and citizenship shall be kept in a second location, in case of fire, theft, or weather-related hazards, as designated by the Executive Committee and made known to the General Council.
 - iii. Citizens' rights to inspect official records of the Nation are limited by Article II, Section 5(a)(3) of this Constitution.
3. The Secretary shall be responsible for ensuring the Tribal Rolls of the Nation are updated regularly in accordance with Article II, Section 4 of this Constitution.

(d) Treasurer.

1. The Treasurer shall supervise the financial affairs of the Catawba Indian Nation in accordance with policies and resolutions and subject to controls established by the Executive Committee.
2. The Treasurer shall maintain all necessary financial records, ensure an accurate accounting of receipts and disbursements of all funds and accounts of the Nation, endorse all disbursements from such funds and accounts, ensure an annual financial audit of all moneys of the Nation is completed by a competent, independent Certified Public Accountant, and provide financial reports annually to the General Council.

Section 3. Powers and Duties

(a) The Executive Committee of the Catawba Indian Nation has the sole power to:

1. Negotiate with and approve or disapprove contracts or agreements on behalf of the Nation with federal, state, or local governments on matters within the powers of the Executive Committee as authorized in this Constitution;
2. Enter into and perform contracts and agreements of any description, consistent with the provisions of this Constitution;
3. Further the economic well-being of the Nation by undertaking programs for the economic and social advancement of the Catawba people;
4. Employ legal counsel for the protection and advancement of the rights of the Catawba Indian Nation;
5. Approve budgets of program funds used for tribal purposes;
6. Prepare an annual budget to be presented to the General Council and administer funds within the control of the Nation, consistent with the provisions of this Constitution;
7. Recommend the acquisition, sale, disposition, lease, or other encumbrance of tribal lands to the General Council;
8. Cause to be installed, maintained, and audited a complete and detailed accounting system for the Nation;
9. Approve and assign new land assignments and regulate the trade or inheritance of land assignments or other transactions between tribal members involving tribal land assignments;
10. Borrow money from the federal government or other sources and direct the use of borrowed funds for productive purposes for the benefit of the Nation;
11. Report alleged violations of any ethical duty by an official to the Ethics Committee or the Tribal Court, including, but not limited to, self-dealing, nepotism, ignoring a conflict of interest, breaching confidentiality, violating the duty of care or duty of loyalty to the Nation, or any other ethical violation which impedes the ethical administration of tribal affairs as an official;
12. Establish ordinances governing the conduct and civil relations of those within the territorial jurisdiction of the Nation;
13. Establish a Civil and Criminal Code governing the conduct of those within the reservation;
14. Appoint Tribal Court judges;
15. Organize and maintain for-profit corporations, non-profit corporations, or

- other business entities to support the economic development of the Nation;
16. Determine the terms and conditions upon which non-citizens of the Nation may enter and remain within the territorial jurisdiction of the Nation and enact ordinances governing the exclusion and removal of non-citizens of the Nation from its territory;
 17. Preserve, protect, and cultivate the arts, crafts, culture, and traditions of the Nation; and
 18. Assert the sovereign immunity of the Nation and waive that immunity, in part or in whole, when deemed appropriate in accordance with Article XI of this Constitution.

Section 4. Meetings

- (a) Regular Meetings of the Executive Committee.
 1. Regular meetings of the Executive Committee shall be held weekly at a time and place to be set by the Executive Committee.
- (b) Special Meetings of the Executive Committee.
 1. Special meetings of the Executive Committee may be called by the Chief at his or her discretion, but the Chief must call a special meeting of the Executive Committee upon written request of three or more members of the Executive Committee.
 2. No special meeting of the Executive Committee shall be called without at least 24 hours notice to each member of the Executive Committee, unless each member has waived the notice requirement in writing.
- (c) Transparency of Meetings and Records of Meetings.
 1. All meetings of the Executive Committee shall be open to the citizenry of the Catawba Indian Nation. However, the Executive Committee may call a closed or executive session at its discretion to discuss proposed or confidential negotiations, discuss matters of litigation, receive advice from an attorney that is protected by attorney-client privilege or attorney work product privilege, or discuss matters in which the Nation is legally obligated to maintain privacy, provided that the general subject matter to be discussed is expressed in the motion calling such session.
 2. A written record shall be kept of all Executive Committee proceedings and shall be preserved in the official minutes of the meeting, except that discussions in a closed or executive session need not be detailed in the record. The record shall be prepared within 14 days of the meeting and shall be open for inspection by all citizens of the Catawba Indian Nation upon request.
 3. The Executive Committee shall date and number every resolution, ordinance, law, and statute, cite the appropriate authority under which the Executive Committee takes such action, and include a certificate that confirms the presence of a quorum and indicates the names and number of members voting in favor and against each enactment and abstaining from voting.

Section 5. Procedures

- (a) Order.
 1. The Chief shall preside at all regularly scheduled and special meetings of the

Executive Committee. If the Chief is absent, the Assistant Chief shall preside at such meetings.

2. The Executive Committee shall pass Rules of Order to govern its meetings so long as they do not conflict with any provision of this Constitution.

(b) Agendas.

1. Agendas for meetings of the Executive Committee shall be set by the Chief. The Chief shall include any items submitted by the written request of two or more members of the Executive Committee.
2. Agendas shall be available to all Executive Committee members no less than three days prior to any regularly scheduled meeting. Agendas for special meetings must be provided to all Executive Committee members at the time notice is given of the meeting.
3. Items may be added to the agenda at an Executive Committee meeting upon motion and concurrence of three or more Executive Committee members.

(c) Voting Requirements.

1. A quorum shall consist of five members of the Executive Committee. Provided that a quorum is present, all votes taken by the Executive Committee shall be decided by a simple majority of those voting, except as otherwise provided in this Constitution. All members of the Executive Committee, including the Chief, are permitted to vote, except as otherwise provided in this Constitution.
2. Voting shall be done by roll call votes, and all the ayes, nays, and abstentions shall be recorded in the meeting minutes.
3. No Executive Committee member shall vote on any matter in which he or she or a member of his or her immediate family has a direct personal interest, including but not limited to employment contracts, project funding, contracts, and appointments to tribal offices or committees, nor shall any such member use, or allow another member to use, his or her authority as an elected official for personal gain or the personal benefit of another member of the Executive Committee. The term “immediate family” means a person's spouse, children, parents, and siblings.

Section 6. Qualifications of Candidates for Office

Candidates for election to the Executive Committee must meet the following qualifications to be placed on the ballot:

- (a) Be a citizen of the Catawba Indian Nation;
- (b) Be at least 25 years of age (or 35 years of age in the case of candidates for Chief) on the date of the election;
- (c) Have a high school diploma or GED;
- (d) Pass a drug test; and
- (e) Not have been convicted either of a felony in the last 15 years or of any serious crime of moral turpitude in the last five years.

Section 7. Terms of Executive Committee Members

- (a) All members of the Executive Committee shall be elected to four-year terms.
- (b) There is no limit to the number of terms a person may hold elected office.

- (c) The election of all Executive Committee members shall be staggered so that no more than four Executive Committee member seats shall be up for election at any one time. Elections shall take place as follows:
1. The Chief, the Secretary, and two at-large members of the Executive Committee shall be elected the same year; and
 2. The Assistant Chief, the Treasurer, and one at-large member of the Executive Committee shall be elected the same year.

Section 8. Temporary Removal

(a) Temporary Removal from Office.

1. In the event an Executive Committee member is temporarily unable to fulfill the powers and duties of his or her office, the Executive Committee member may be temporarily removed from office by:
 - i. A written declaration by the Executive Committee member who is temporarily unable to fulfill his or her duties stating such; or
 - ii. In the event an Executive Committee member is temporarily incapacitated and unable to make such a written declaration himself or herself, the Executive Committee may declare an Executive Committee member temporarily unable to fulfill the powers and duties of his or her office by a two-thirds vote of the total membership of the Executive Committee.
2. The Executive Committee shall appoint a person to temporarily fill the position in accordance with the vacancy procedures in Article VII, Section 6 of this Constitution. The temporary appointment shall cease and the Executive Committee member shall resume his or her duties upon the Executive Committee member sending a written declaration that he or she is able to resume the powers and duties of the office.

ARTICLE VI – TRIBAL COURTS

Section 1. Establishment

The Catawba Indian Nation has inherent sovereign authority to establish a judicial system, including both criminal and civil courts, within its government.

A Tribal Court shall be established within two years of adoption of this Constitution. The Tribal Court of the Catawba Indian Nation shall have all judicial powers of the Nation. The Tribal Court may include any lower courts of special jurisdiction as the Tribal Court may establish.

Section 2. Jurisdiction

The judicial power of the Tribal Court shall extend to any and all cases or controversies within the jurisdiction of the Catawba Indian Nation arising under this Constitution, the laws and ordinances of the Catawba Indian Nation, or which are vested in the Tribal Court by federal or state law or by the Nation's inherent sovereignty.

The Tribal Court has the power to require a citizen to submit to DNA testing.

Section 3. Judicial Review

The Tribal Court shall have power to review the actions of the Executive Committee, the General Council, and other tribal entities to determine whether they are unconstitutional under this Constitution or prohibited by federal or tribal law. The Nation waives its sovereign immunity for suit within the Tribal Court so that the Tribal Court has the power to declare acts that are unconstitutional or prohibited by federal or tribal law void and issue injunctive relief.

Section 4. Selection of Judges

After verification of qualifications, judges of the Tribal Court shall be appointed by the Executive Committee by a two-thirds vote to serve for a term of six years.

Section 5. Qualifications of Judges

Judges of the Tribal Court must meet the following qualifications:

- (a) Be a citizen of the Catawba Indian Nation or a non-citizen who is sensitive to the culture and traditions of the Catawba Indian Nation;
- (b) Be at least 30 years of age;
- (c) Have a Juris Doctor degree from an accredited law school;
- (d) Be a member of a state bar;
- (e) Pass a drug test; and
- (f) Never have been convicted of either a felony or of any serious crime of moral turpitude resulting in imprisonment.

Section 6. Court Procedures

The procedures and rules of the Tribal Court and all other matters of the judicial branch of the Catawba Indian Nation not addressed in this Constitution must be enacted through ordinance by both the Executive Committee and the General Council.

Section 7. Ethics Committee

The General Council shall appoint an Ethics Committee to conduct, supervise, and oversee all investigations of breaches of ethical requirements set out in this Constitution and in the Ethics Ordinance. The Ethics Committee shall ensure the provisions of this Constitution and the Ethics Ordinance are faithfully administered and followed. If the Ethics Committee believes an official has violated any part of the Ethics Ordinance, it may present its findings and make recommendations to the General Council, including following the Constitution's removal procedures in Article VIII, Section 3 of this Constitution.

The Ethics Committee shall consist of members of the General Council. Members of the Ethics Committee are not eligible to run for elected office within the Nation and cannot be an immediate family member of the Executive Committee or candidate for elected office. The term "immediate family" means a person's spouse, children, parents, and siblings.

Once the Tribal Court is established, the Tribal Court will make final judgments regarding recommendations to the General Council, but the Ethics Committee will continue to conduct investigations into ethical breaches and report its factual findings to the Tribal Court.

Section 8. Ethics Ordinance

The General Council shall enact an Ethics Ordinance to govern the behavior and actions of the Nation's officials. The Ordinance shall include provisions for the behavior and ethics of officials, including but not limited to self-dealing, nepotism, conflicts of interest, confidentiality, duty of care and duty of loyalty to the Nation, and any other provisions necessary to ensure ethical administration of tribal affairs as an elected official, insofar as these provisions are consistent with this Constitution. The Ethics Ordinance shall further include provisions on the appointment of the Ethics Committee, length of terms, meeting procedures of the Ethics Committee, and all other provisions necessary to determine the procedures of the Ethics Committee.

ARTICLE VII – ELECTIONS

Section 1. General and Special Elections

- (a) General elections, at which the General Council votes for Executive Committee members, shall be held in odd numbered years on a Saturday in July, as established by the Election Board. The Election Board shall establish the date of the election no less than six months before the date is scheduled.
- (b) Special elections shall be held when called for by this Constitution.

Section 2. Election Board

The General Council shall appoint an Election Board to conduct, supervise, and oversee all elections, including special elections. The Election Board shall ensure the provisions of this Constitution and the Election Ordinance are faithfully administered and followed. The Election Board shall consist of members of the General Council. Members of the Election Board are not eligible to run for elected office with the Nation and cannot be an immediate family member of a candidate for elected office. The term “immediate family” means a person's spouse, children, parents, and siblings. The Election Board may appoint clerks, poll workers, and others to assist the Election Board with conducting elections.

Section 3. Election Ordinance

The General Council shall enact an Election Ordinance to govern all elections of the Catawba Indian Nation. The ordinance shall include provisions for the time, place, and manner of voting, absentee voting, walk-in voting, ties, the settlement of election disputes, including the right to appeal the results to the Tribal Court, procedures for swearing in elected officials, a transition period between terms of elected officials, and all other voting procedures necessary for efficient administration of tribal elections, insofar as they are consistent with this Constitution. The Ethics Ordinance shall further include provisions on the appointment of the Election Board, length of terms, meeting procedures of the Election Board, and all other provisions necessary to determine the procedures of the Election Board.

Section 4. Qualifications of Voters

The General Council, consisting of citizens of the Catawba Indian Nation who are 18 years of age or older, shall have the right to vote in all tribal elections.

Section 5. Voting Procedures

- (a) Ballots.
 - 1. All voting at regular and special elections shall be done by a secret ballot.
 - 2. Absentee ballots shall be provided to all qualified voters.
- (b) Tie Votes.
 - 1. Tie votes between two or more candidates shall be decided in a special runoff election conducted as all other general and special elections are conducted.
- (c) Challenges.
 - 1. Any candidate for office may challenge the results of any election by presenting his or her written challenge to the Election Board within seven days after the election results are certified. The Election Board shall respond to all election challenges within seven days of the receipt of a challenge. The findings of the Election Board may be appealed to the Tribal Court within seven days of receipt of the Election Board findings. If the Election Board or the Tribal Court invalidates the election results because of a major violation of election procedures, a new election shall be held within 60 days.
- (d) Election Results.
 - 1. The Election Board shall certify the results of elections.
 - 2. Executive Committee Officers (Chief, Assistant Chief, Secretary, and Treasurer).
 - i. In any election of Executive Committee officers (Chief, Assistant Chief, Secretary, and Treasurer), each voter shall be allowed to cast one vote for each officer vacancy. The winner of each office shall be the person who receives the greatest number of votes.
 - 3. At-Large Members of the Executive Committee.
 - i. In any election of at-large members of the Executive Committee, each voter shall be allowed to cast one vote for each at-large member vacancy. No more than one vote per candidate shall be cast. The winner or winners of the at-large member seats shall be the person or people who receive the greatest number of votes according to the number of seats vacant at that election.

Section 6. Vacancies

- (a) Other than Executive Committee members temporarily removed under Article V, Section 8 of this Constitution, all vacancies of the Executive Committee shall be filled by election within 90 days.
 - 1. For all vacancies on the Executive Committee, the General Council shall elect a person to fill any vacant office at the next general election if it is scheduled to be held within 90 days. If there is no general election scheduled within the next 90 days, a special election shall be held to fill the vacancy.
- (b) Vacancy in Office of Chief.
 - 1. In the event of the death, resignation, recall, or removal of the Chief, the Assistant Chief shall be sworn in as the Chief. The Assistant Chief shall serve as Chief until the next general or special election. At the next general or special election, the General Council shall elect a Chief to serve the balance of the four-year term of office. Upon the swearing-in of the new Chief, the

Assistant Chief shall return to his or her position as Assistant Chief for the remainder of his or her original term.

(c) Vacancy in the Other Executive Offices.

1. In the event of the death, resignation, recall, or removal of the Assistant Chief, Secretary, or Treasurer, the Executive Committee shall appoint a person from its membership to temporarily fill the vacancy. The appointed Executive Committee member shall assume office and serve until the next general or special election. At the next general or special election, the General Council shall elect a person to serve the balance of the four-year term of office that became vacant. Upon the swearing-in of the new officer, the Executive Committee member shall return to the original position he or she was elected to for the remainder of his or her term.

(d) Vacancy in At-Large Executive Committee Member Positions.

1. In the event of the death, resignation, recall, or removal of any at-large member of the Executive Committee, the position shall remain vacant until an election is held. The person elected to the vacant at-large position shall serve the balance of the four-year term of the position that became vacant.

Section 7. Oath of Office

Prior to assuming elected office, the individual elected shall take the following oath of office: I, _____, do solemnly swear that I will support, uphold, and defend the Constitution of the Catawba Indian Nation and that I will faithfully, honestly, and impartially fulfill the duties of my office to the best of my ability, so help me God.

ARTICLE VIII – INITIATIVE, REFERENDUM, RECALL, AND REMOVAL

Section 1. Initiatives

The General Council has the power to propose laws, ordinances, and resolutions through initiatives. To propose an initiative, the General Council shall submit to the Election Board a petition signed by at least eight percent of the General Council. The petition must include the proposed language of the law, ordinance, or resolution and the names, signatures, and current addresses of those signing the petition. Upon receipt and verification of the petition by the Election Board, the initiative shall be submitted for a vote by the General Council at a regular or special election to be held within 90 days of verification of the petition by the Election Board. The vote of a majority of at least 15 percent of the General Council shall be conclusive and binding. If 15 percent of the General Council does not vote on the initiative, the vote is considered failed and the proposed initiative is not enacted.

Section 2. Referendum

The General Council has the power to overturn proposed or previously enacted laws, ordinances, and resolutions through referendums. To propose a referendum, the General Council shall submit to the Election Board a petition signed by at least eight percent of the General Council. The petition must include the proposed language overturning the law, ordinance, or resolution and the names, signatures, and current addresses of those signing the petition. Upon receipt and verification of the petition by the Election Board, the referendum shall be submitted for a vote by

the General Council at a regular or special election to be held within 90 days of verification of the petition by the Election Board. The vote of a majority of at least 15 percent of the General Council shall be conclusive and binding. If 15 percent of the General Council does not vote on the referendum, the vote is considered failed and the proposed referendum is not enacted.

Section 3. Recall and Removal

The General Council has the power to recall and remove members of the Executive Committee and Tribal Court judges. To propose a recall or removal, the General Council shall submit to the Election Board a petition signed by at least 15 percent of the General Council. The petition must include the name of the official to be recalled or removed and the specific reasons for recall or removal as well as the names, signatures, and current addresses of those signing the petition. Upon receipt and verification of the petition, the Election Board has the duty to submit the recall or removal petition for a vote by the General Council. The vote shall be held at a regular or special election within 90 days of verification of the petition by the Election Board, provided that, if the petition is received less than six months prior to the regular election, the Election Board may direct the matter be placed on the ballot of the regular election. The vote of a majority of at least 30 percent of the General Council shall be conclusive and binding. If the majority votes in favor of the recall or removal of the official, the office shall be declared vacant and filled in accordance with the provisions of this Constitution. If the majority votes against recall or removal, that officer cannot be recalled again for 12 months. Notwithstanding any other provision in this Constitution, any Executive Committee member that has been recalled from office shall be ineligible to be a candidate in the election to fill the vacancy created by the recall and shall be ineligible in the next general election for any office. Any Tribal Court judge that has been recalled from office shall be ineligible to be re-appointed as a Tribal Court judge for six years.

Tribal Court judges may also be recommended for removal from judicial practice by a two-thirds vote of the Executive Committee for abuses of impartiality, bribery, political impropriety, or felony conviction. After such a vote, the Executive Committee shall schedule a General Council meeting to discuss the reasons for its recommendation. The General Council may then choose whether to implement the procedures for removal.

If 30 percent of the General Council does not vote on the recall or removal, the vote is considered failed and the Executive Committee member or Tribal Court judge is not removed from office.

ARTICLE IX – AMENDMENTS

Section 1. Petition of the General Council

The General Council has the power to propose amendments to this Constitution through petition signed by at least 15 percent of the General Council. If the Election Board determines the petition is valid pursuant to the Nation's Election Ordinance, the Executive Committee shall adopt a resolution to authorize a special election to vote on the adoption of the proposed amendment and the voting requirement of Section 3 of this Article must be met for the amendment to be adopted.

Section 2. Resolution of the Executive Committee

The Executive Committee has the power to propose amendments to this Constitution through resolution. The Executive Committee shall provide the General Council notice of any proposed amendment at least 30 days prior to the Executive Committee's vote to authorize the resolution proposing the amendment in order to provide sufficient time for questions and comments. The notice shall specify the purpose of the proposed amendment and provide the draft language of the proposed amendment. Upon the adoption of a resolution to propose an amendment, a special election shall be called and the voting requirement of Section 3 of this Article must be met for the amendment to be adopted.

Section 3. Voting Requirements

An amendment shall become effective if adopted by a majority of the General Council voting on the amendment in an election authorized by an Executive Committee resolution in which at least 30 percent of the General Council casts their ballots.

ARTICLE X – ADOPTION OF THIS CONSTITUTION

Section 1. Adoption

This Constitution, when adopted by a majority vote of the General Council voting in an election duly called in which at least 30 percent of the General Council casts their ballots, shall be effective from the date of adoption.

Section 2. Interim Officers and Initial Election

Notwithstanding any other provision in this Constitution, upon adoption of this Constitution, the newly elected members of the Executive Committee shall assume all powers and duties of office set forth in this Constitution.

This election will satisfy the requirements set forth in the Catawba Indian Tribe of South Carolina Land Claims Settlement Act of 1993, 25 U.S.C. §§ 941–941n, so that another election to meet the requirements of that Act is not required.

Following the July 2015 election, the person elected as Secretary-Treasurer may choose whether to assume the office of Secretary or Treasurer. The term of the Chief, Secretary, and the two at-large members elected in the July 2015 election shall be for four years. The two new positions on the Executive Committee created by adoption of this Constitution shall be filled in accordance with Article VII, Section 6 of this Constitution. The initial terms of the Assistant Chief, Treasurer, and the at-large member elected in the special election following adoption of this Constitution shall be for two years in order to provide for staggered elections. A special election to fill these additional positions on the Executive Committee shall be held within 90 days of the adoption of this Constitution. After these initial terms to create staggered elections, all terms of Executive Committee members shall be four years, in accordance with Article V, Section 7 of this Constitution.

Section 3. Savings Clause and Interim Ordinances

Notwithstanding any other provisions of this Constitution, any ordinance previously adopted by

the General Council or Executive Committee and in effect at the time of adoption of this Constitution shall remain in full force and effect according to its terms until it is amended or repealed. A new Citizenship Ordinance, Ethics Ordinance, and Election Ordinance shall be prepared and presented to the General Council for approval within two years of adoption of this Constitution.

ARTICLE XI – SOVEREIGN IMMUNITY

The Catawba Indian Nation declares its sovereign immunity from all lawsuits except for those provided for in Article VI, Section 3 of this Constitution. The Executive Committee shall have the right to waive the sovereign immunity of the Nation if it finds doing so to be in the best interests of the Catawba Indian Nation.

ARTICLE XII – SOVEREIGN POWERS

It shall be the obligation of the government of the Catawba Indian Nation to work in a spirit of good will with the federal and state governments to assure the ability of the Nation to fully exercise its inherent sovereign powers.

ARTICLE XIII – SEVERABILITY

If any provision of this Constitution shall in the future be declared invalid by a court of competent jurisdiction, the invalid portion shall be severed and the remaining provisions shall continue in full force and effect.

ARTICLE XIV – SUPREMACY

This Constitution is the supreme law of the Catawba Indian Nation.