

CONSTITUTION OF THE EASTERN BAND OF CHEROKEE INDIANS

PREAMBLE

We the people of the Eastern Band of Cherokee Indians, a federally recognized sovereign Indian Tribe, acknowledging the Creator, do hereby adopt this Constitution in order to:

- Promote the common good and well-being of the Tribe;
- Preserve, secure and exercise all the inherent sovereign rights and powers of an Indian tribe;
- Promote and protect the health, education, and welfare of our people;
- Protect our land, water and natural resources;
- Protect the individual rights of our members;
- Promote self-government and ensure the political integrity of the Tribe;
- Protect and preserve our culture and traditions including our language, arts and crafts, and archeological sites;
- Encourage and promote educational opportunities for members of the Tribe; and
- Foster economic development.

ARTICLE I – TERRITORY AND JURISDICTION

Section 1. Territory.

The territory of the Eastern Band of Cherokee Indians shall include, to the fullest extent possible consistent with federal law, all lands, water, property, airspace, surface rights, subsurface rights and other natural resources in which the Tribe now or in the future has any interest, which are owned now or in the future by the United States for the exclusive or non-exclusive benefit of the Tribe or for individual tribal members, or which are located within the boundaries of a reservation which may be established for the Tribe, notwithstanding the issuance of any right-of-way.

Section 2. Jurisdiction.

Except as prohibited by federal law, the Eastern Band of Cherokee Indians shall have jurisdiction over all tribal members and over all persons, subjects, property and all activities occurring within its territory as defined by this Article. Nothing in this Article shall be construed to limit the ability of the Tribe to exercise its jurisdiction, based upon its inherent sovereignty as an Indian tribe.

ARTICLE II – BILL OF RIGHTS

The People of the Eastern Band of Cherokee Indians adopt the following Bill of Rights for all of the People of Eastern Band of Cherokee Indians:

Section 1. Freedom of Religion, Speech, Press, Assembly, and Petition.

The Eastern Band of Cherokee Indians, in exercising its powers of self-government, shall not 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 to peaceably assemble and to petition for redress of grievances.

Section 2. Freedom from Unreasonable Searches and Seizures.

The Eastern Band of Cherokee Indians, in exercising its powers of self-government, shall not violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and person or thing to be seized.

Section 3. Open Courts.

The judicial process of the Eastern Band of Cherokee Indians shall be open to every person and entity within the jurisdiction of the Eastern Band of Cherokee Indians. Speedy and certain remedy and equal protection shall be afforded under the laws of the Eastern Band of Cherokee Indians.

Section 4. Double Jeopardy.

The Eastern Band of Cherokee Indians, in exercising its powers of self-government, shall not subject any person for the same offense to be twice put in jeopardy.

Section 5. Protection from Self-Incrimination.

The Eastern Band of Cherokee Indians, in exercising its powers of self-government, shall not compel any person in any criminal case to be a witness against himself/herself.

Section 6. No Seizure of Property Without Just Compensation.

The Eastern Band of Cherokee Indians, in exercising its powers of self-government, shall not take any private property for a public use without just compensation.

Section 7. Rights of Criminal Defendants.

The Eastern Band of Cherokee Indians, in exercising its powers of self-government, shall not 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 him/her, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have the assistance of counsel for his/her defense and to have these rights explained at the time of arrest.

Section 8. Freedom from excessive bail, cruel and unusual punishments.

The Eastern Band of Cherokee Indians, in exercising its powers of self-government, shall not require excessive bail, impose excessive fines, or inflict cruel and unusual punishments.

Section 9. Due Process and Equal Protection.

The Eastern Band of Cherokee Indians, in exercising its powers of self-government, shall not 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.

Section 10. No Bills of Attainder or Ex Post Facto laws.

The Eastern Band of Cherokee Indians, in exercising its powers of self-government, shall not pass any bill of attainder or ex post facto law.

Section 11. Right to Jury Trial.

The Eastern Band of Cherokee Indians, in exercising its powers of self-government shall not 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 people.

ARTICLE III –GOVERNMENT

Section 1. Branches of Government.

The government of the Eastern Band of Cherokee Indians shall be divided into three separate and equal branches: Legislative, Executive, and Judicial; and except as provided in this Constitution, the Legislative, Executive and Judicial branches of government shall be separate and independent.

Section 2. Seat of Government.

The seat of government of the Eastern Band of Cherokee Indians shall be centrally located within the Qualla Boundary, at Cherokee, North Carolina.

ARTICLE IV – LEGISLATIVE BRANCH

Section 1. Legislative Branch.

The legislative branch of the Eastern Band of Cherokee Indians shall be known as the Eastern Band of Cherokee Indians Tribal Council and shall consist of twelve members as follows: two members from Yellowhill Township; two members from Big Cove Township; two members from Birdtown Township; two members from Wolfstown Township; two members from Painttown Township; two members from Cherokee and Graham Counties, constituting one Township. All Tribal Council Members shall be enrolled members of the Tribe who are selected by the eligible voters of the Tribe in accordance with this Constitution and the election ordinance.

Section 2. Election and Terms of Office.

Tribal Council Representatives shall be elected on the first Thursday in September, 2017, and shall hold office for terms of two years. Tribal Council Representatives shall hold office until the first Annual Council held after the next tribal election and all Tribal Council Representatives shall hold office until their successors are duly qualified.

Section 3. Qualifications for Office.

Each Tribal Council member shall be an enrolled member of the Eastern Band of Cherokee Indians; shall be domiciled within the Township he or she is to represent for no less than 1 year immediately preceding the day of general election in which he or she seeks election; and shall have obtained the age of eighteen years at the time of his/her election

Section 4. Oath of Office.

Each member of Tribal Council, before entering on the duties of office, shall take the following oath before some officer authorized to administer oaths: "I do solemnly swear (or affirm) that I will faithfully execute the duties of the office of Tribal Council member of the Eastern Band of Cherokees and will to the best of my ability, preserve, protect and defend the laws adopted by the Eastern Band of Cherokee Indians and the Constitution confirmed and ratified by the enrolled members of the Eastern Band of Cherokee Indians. I do solemnly swear (or affirm) that I have not obtained my election or appointment to Tribal office by bribery or any undue or unlawful means or fraud, and that in all measures which may come before me I will so conduct myself as in my judgment shall appear most conducive to the interest and prosperity of the Eastern Band of Cherokees."

Section 5. Compensation.

The members of the Tribal Council shall receive such compensation as shall be appropriated by the Tribal Council, with no pay raise to take effect until the next council is seated. All other officers

and employees of the Tribe shall receive compensation for their services as shall be provided by the Tribal Council.

Section 6. Vacancy in Office of Tribal Council Member.

In case of death, resignation, removal or disability of any member of Tribal Council, a new member shall be elected by the Township under such rules and regulations as may be prescribed by the Board of Elections.

Section 7. Annual Council.

There shall be Annual Council held beginning on the first Monday in October of every year and lasting throughout the month. The Principal Chief may call a Special Council. No business can be transacted in either Annual or Special Council unless a quorum of the members shall be present, with a quorum consisting of a majority of the members of Tribal Council elected at the last preceding election. The Principal Chief shall have the right to call a Grand Council of all enrolled members to attend, and shall preside over such meeting.

Section 8. Chair, Vice-Chair, and Clerk.

At the convening of the Annual Council a new chair, vice-chair and clerk shall be elected by the Tribal Council and hold office until the next Annual Council; provided, that all officers elected or appointed by the Tribal Council shall serve during the pleasure of the Tribal Council and may be removed by Tribal Council and other officers elected in their stead.

Section 9. Meetings of Tribal Council.

The Tribal Council shall hold a regular meeting once a month.

Section 10. Quorum.

Seven or more members of the Tribal Council shall constitute a quorum for any regular or special Tribal Council meeting. A quorum is required at all meetings in order to conduct official business of the Tribal Council. Proxy voting shall be prohibited.

Section 11. Voting.

In order to provide equal representation to all members of the Eastern Band, the members of the Tribal Council shall, in their deliberations, cast votes on a weighted basis, with the weight of each vote determined by the prior census conducted.

A tribal census, for the purposes of determining the number of the votes to be cast by each Tribal Council member, shall be conducted in conjunction with the U.S. National Census beginning in 2020, prior to the 2021 tribal election and prior to the election each ten years thereafter to determine the number of enrolled tribal members residing in each township.

After the regular 2021 tribal election and each ten years thereafter, the Tribal Council, at its first regular meeting, shall determine the total number of votes to be cast in the Tribal Council and shall allot a voting authority to each Council member. The voting weight allotted to each Council member shall be determined by computing the mathematical ratio, fraction or proportion that exists between the number of enrolled tribal members residing in each township and the total number of enrolled tribal members residing in all of the townships. All Council members, including the Chair, shall be entitled to vote on all issues.

Section 12. Powers.

The Tribal Council shall adopt laws for the general governance of the Tribe and for the management of real and personal property held by the Tribe.

The powers of the Tribal Council include but are not limited to the following:

- (a) To enact laws to protect the health, safety, and welfare of the Eastern Band of Cherokee Indians;
- (b) To enact laws regulating the use, disposition and inheritance of all property within the territory of the Tribe;
- (c) To provide for the removal or exclusion of any non-member of the Tribe whose presence maybe injurious to members of the Tribe, and to prescribe conditions upon which non-members may remain within the territory of the Tribe;
- (d) To levy and collect taxes, duties, fees and assessments;
- (e) To appropriate the use of tribal funds in accordance with an annual budget approved by the Tribal Council;
- (f) To enact laws to regulate all business activities within the jurisdiction of the Tribe;
- (g) To appoint subordinate legislative committees;
- (h) To enact laws, ordinances and resolutions necessary or incidental to the exercise of its legislative powers;
- (i) To take any and all actions necessary and proper for the exercise of the foregoing powers and duties, including those powers and duties not enumerated above, and for all other powers and duties now or hereafter delegated to the Tribal Council.

Section 13. Acts of Council.

All acts of Council shall be signed by the chairman and the clerks, and countersigned by the Principal Chief.

Section 14. Veto.

The Principal Chief shall have the power to veto all acts of Tribal Council but his veto shall not prevail against a two-thirds weighted vote of Tribal Council. All acts neither signed nor vetoed by the Principal Chief within thirty (30) calendar days shall be deemed valid legislation.

ARTICLE V – EXECUTIVE BRANCH

Section 1. Principal Chief.

The executive power of the Eastern Band of Cherokee Indians shall be vested in the Principal Chief of the Eastern Band of Cherokee Indians. The Principal Chief shall cause the laws of the Eastern Band of Cherokee Indians to be faithfully executed and shall perform the administrative and day to day management of the Eastern Band of Cherokee Indians.

Section 2. Election and Term of Office – Principal Chief.

The Principal Chief shall be elected on the first Thursday in September 2019. The Principal Chief shall hold office for a term of four (4) years. No person having been elected to the office of Principal Chief in two (2) consecutive elections shall be eligible to file for the Office of Principal Chief in the election next following his or her second term of office. The Principal Chief shall be elected by a majority of votes.

Section 3. Qualifications for Office – Principal Chief.

The Principal Chief of the Eastern Band of Cherokee Indians shall be an enrolled member of the Eastern Band of Cherokee Indians; shall be domiciled within the boundaries of the Eastern Band of Cherokee Indians for no less than 2 years immediately preceding the day of general election in which he or she seeks election; and shall have obtained the age of thirty-five years at the time of his or her election.

Section 4. Election, Term of Office, and Qualifications – Vice-Chief.

The registered voters shall also elect a Vice Chief, who shall possess the same qualifications as the Principal Chief, for a term of four (4) years at the same time and in the same manner as herein provided for the election of the Principal Chief. The Vice Chief shall be subject to the same term limitations as provided for the Principal Chief in this Constitution.

Section 5. Oath of Office.

The Principal Chief and Vice-Chief, before entering on the duties of office, shall take the following oath before some officer authorized to administer oaths: "I do solemnly swear (or affirm) that I will faithfully execute the duties of the office of _____ of the Eastern Band of Cherokees and will to the best of my ability, preserve, protect and defend the laws adopted by the Eastern Band of Cherokee Indians and the Constitution confirmed and ratified by the enrolled members of the Eastern Band of Cherokee Indians. I do solemnly swear (or affirm) that I have not obtained my election or appointment to Tribal office by bribery or any undue or unlawful means or fraud, and that in all measures which may come before me I will so conduct myself as in my judgment shall appear most conducive to the interest and prosperity of the Eastern Band of Cherokees."

Section 6. Compensation.

The Principal Chief shall receive as compensation such sum as shall be appropriated by the Tribal Council, not to exceed one pay raise per year. The Vice-Chief shall receive such sum as shall be fixed by the Tribal Council, not to exceed one pay raise per year. Both the Principal Chief and Vice-Chief shall receive such traveling expenses as may be authorized by the Tribal Council. The compensation for the Chief and Vice-Chief shall not be diminished during their terms in office.

Section 7. Calling Special Meetings of Tribal Council.

The Principal Chief may convene the Tribal Council at the seat of government. The purposes of said meetings must be stated, and the Tribal Council may consider only such matters as are specified in the call of the special meetings. Before the special meetings may be legally sufficient to conduct business, a quorum of the Tribal Council must be present.

Section 8. Budget.

The Principal Chief shall present a balanced budget to Tribal Council no later than July 1 of each year.

Section 9. Vice-Chief.

The Vice-Chief shall, by virtue of the office, aid and advise the Principal Chief as requested in the administration of the government.

Section 10. Vacancy in Office.

In case of the absence of the Principal Chief from office due to death, resignation, removal or inability to discharge the powers and duties of the office, the same shall devolve upon the Vice Chief for the remaining portion of the four (4) year term to which the Principal Chief had been elected. In case of disability, such powers shall continue during the term of such disability.

In the event of the death, resignation, or removal of the Vice Chief, or his or her inability to discharge the powers and duties of the office, the person who is then the Chair of the Tribal

Council shall succeed to the office of the Vice Chief for the balance of the term. In the case of temporary disability, said person shall serve as Vice Chief for the duration of the disability and thereafter shall reassume the office of Chair of the Tribal Council.

Tribal Council may, in the case of removal, death, resignation or disability of the Principal Chief, Vice Chief and the Chair of the Tribal Council, provide by law what officer shall then act as Principal Chief until the disability be removed or a successor shall be elected.

Section 11. Subordinate Officers.

Nothing in this Constitution shall be construed as preventing the Principal Chief from employing such administrative assistants and other subordinate officers as he deems proper.

Section 12. Expenditures of Tribal funds

No money shall be paid out except upon warrant of the Principal Chief as authorized by an act of the Tribal Council.

ARTICLE VI – JUDICIAL BRANCH

Section 1. Cherokee Court System.

The judicial power of the Eastern Band of Cherokee Indians shall be vested in the Cherokee Court System. The Cherokee Court System shall include a Tribal Court and such other lower courts of special jurisdiction as the Tribal Council may establish by ordinance. There shall also be a Cherokee Supreme Court, which shall be the court of last resort for all cases filed within the Cherokee Court System.

Section 2. Jurisdiction.

The judicial power of the courts shall extend to all cases and controversies within the jurisdiction of the Tribe, in law or equity, arising under this Constitution, the laws or customs of the Tribe, or which are vested in the tribal courts by federal law or by virtue of the Tribe's inherent sovereignty. Any case or controversy arising within the jurisdiction of the Tribe shall be filed in the Tribal Court or other appropriate forum established by the Tribal Council before it is filed in any other court.

Section 3. Applicable Law.

The Cherokee Court System shall interpret and apply the Constitution, laws, customs and traditions of the Eastern Band of Cherokee Indians. In deciding cases and controversies over which it has jurisdiction, the Cherokee Court System shall be bound first by this Constitution and by the laws, customs, traditions, and precedents of the Eastern Band of Cherokee Indians. If there is no applicable Cherokee law, the Cherokee Court System shall look next to Federal

law, then to North Carolina law, and finally to the law of other jurisdictions for guidance. The Cherokee Court or Cherokee Supreme Court shall declare any law of the Eastern Band of Cherokee Indians void if such law is not consistent with this Constitution. However, the courts shall adopt a presumption of constitutionality of the laws adopted by Tribal Council.

Section 4. Qualifications of Judges.

Each judge in the Cherokee Court System shall be a lawyer duly licensed in the State of North Carolina and in the Cherokee Court System. No person shall serve as a judge of the Cherokee Court System who has been convicted of a felony in any jurisdiction, convicted of embezzlement or crimes based upon fraud against the Eastern Band of Cherokee, or removed by impeachment from any office. Additional qualifications may be established by ordinance, provided that no additional requirements may be added during the tenure of a judge already in office, unless the additions or changes exempt the present judges during their term.

Section 5. Composition of Courts.

The Cherokee Supreme Court shall be comprised of one Chief Justice and two Associate Justices. The Cherokee Tribal Court shall be comprised of one Chief Judge and such additional Associate Judges, and such other Associate Judges of the Trial Courts of Special Jurisdiction as provided for by Tribal Council.

Section 6. Appointment of Judges.

All Justices and Judges shall be appointed upon nomination by the Principal Chief, and confirmation by the Tribal Council. All justices and judges shall serve terms of four years, or until their successors have been sworn into office, and shall be eligible for reappointment.

Section 7. Compensation.

Judges shall receive for their services reasonable compensation that shall not be diminished during their term of office.

Section 8. Recusal.

Any Justice or Judge with a direct personal or financial interest in the outcome of any matter shall recuse himself or herself from the matter, and failure to recuse shall constitute grounds for removal from office pursuant to Article VIII hereof.

Section 9. Court Rules.

The duties and procedures of the Cherokee Court System, and all other court matters not addressed in this article of the Constitution, shall be established by ordinance of the Tribal Council. The ordinance may also include a Judicial Code of Ethics governing the conduct of tribal

judges. This section shall not be interpreted to prevent the Cherokee Court System from adopting rules of procedure or conduct not inconsistent with this Constitution and the laws otherwise adopted by Tribal Council.

ARTICLE VII – REMOVAL FROM OFFICE

Section 1. Applicability of Article.

This Article VIII shall apply to the offices of Chief, Vice-Chief, Tribal Council member, Chief Justice or Justice of the Cherokee Supreme Court, and Chief Judge or Judge of the Cherokee Court.

Section 2. Grounds for Removal.

- (a) The Chief, Vice-Chief, any Tribal Council member, any Chief Justice or Justice of the Cherokee Supreme Court, or any Chief Judge or Judge of the Cherokee Court may be removed from office pursuant to the Article VIII only for:
 - (i) conviction of a felony or a crime involving dishonesty; or
 - (ii) violating the oath of office or any offense causing the individual to be ineligible to hold office.
- (b) The Chief Justice or Justice of the Cherokee Supreme Court, or any Chief Judge or Judge of the Cherokee Court may also be removed from office pursuant to this Article VIII for violation of Section 8 of Article VI.

Section 3. Procedure for Removal – Phase 1.

- (a) The Tribal Council may initiate removal proceedings against the Chief, Vice-Chief, any Tribal Council member, any Chief Justice or Justice of the Cherokee Supreme Court, or any Chief Judge or Judge of the Cherokee Court by adopting Articles of Removal by a majority of the weighted vote. No Tribal Council member may vote on any Articles of Removal for himself/herself. The standard for adopting Articles of Removal is whether there is probable cause to believe the officer to be removed has committed offenses sufficient to justify removal from office.
- (b) The Articles of Removal must set forth with specificity the grounds for removal of the officer.
- (c) If the Tribal Council votes to consider Articles of Removal, then not less than 30 nor more than 90 days thereafter, Tribal Council shall sit as a quasi-judicial body to determine whether the officer charged has committed offenses sufficient to justify

removal from office.

- (d) The officer against whom Articles of Removal are pending shall have:
 - (i) notice of the charges against him/her;
 - (ii) the right to be represented by counsel;
 - (iii) the right to present evidence in his/her own defense;
 - (iv) the right to cross-examine all witnesses against him/her; and
 - (v) the right to procedural and substantive due process in all proceeding considering the Articles of Removal.
- (e) When the Tribal Council sits as a quasi-judicial body to consider adopting Articles of Removal it shall do so in session open to all tribal members.
- (f) Evidence in favor of the Articles of Removal shall be presented by counsel chosen by Tribal Council.
- (g) After hearing all of the evidence presented, Tribal Council shall vote on adopting the Articles of Removal. If less than 2/3 of the Tribal Council (by weighted vote) vote to adopt the Articles of Removal, then the Articles shall be dismissed. If 2/3 or more of the Tribal Council (by weighted vote) vote to adopt the Articles of Removal, the officer shall be suspended from the exercise of the duties of his/her office during the pendency of the removal proceedings. When the Articles of Removal are against a Tribal Council member, the requirement to adopt Articles of Removal shall be 2/3 or more of the Tribal Council (by weighted vote) of those members entitled to vote (the weighted votes of the Tribal Council member who is the subject of the Articles of Removal shall not be considered).

Section 3. Procedure for Removal – Phase 2.

- (a) If the Tribal Council adopts Articles of Removal pursuant to Section 2 above, then the Elections Board shall schedule a special Removal Election not less than 30 nor more than 60 days after the adoption of the Articles of Removal. For the positions of Principal Chief, Vice-Chief, Chief Justice or Justice of the Cherokee Supreme Court, or any Chief Judge or Judge of the Cherokee Court, the election shall be of all eligible voters. For the position of Tribal Council member, the election shall be of all eligible voters within that Tribal Council member's township. For the position of Chief Justice or Justice of the Supreme Court, or any Chief Judge or Judge of the Cherokee Court the Principal Chief shall nominate a new appointment to fulfill the unexpired term of the removed Justice or Judge and Tribal Council shall vote to confirm.

- (b) The sole issue for determination shall be whether the officer in question has committed the acts justifying removal set forth in the Articles of Removal.
- (c) A majority vote by secret written ballot of the eligible voters casting ballots shall determine whether the officer is removed.

ARTICLE VIII - MEMBERSHIP

Section 1. Tribal Membership Requirements

The membership of the Eastern Band of Cherokee Indians shall consist of the following:

- (a) All persons whose names appear on the roll of the Eastern Band of Cherokee Indians of North Carolina, prepared and approved pursuant to the Act of June 4, 1924 (43 Stat. 376), and the Act of March 4, 1931 (46 Stat. 1518);
- (b) All direct lineal descendants of persons identified in section (a) who were living on August 14, 1963; who possess at least 1/32 degree of Eastern Cherokee blood, who applied for membership prior to August 14, 1963, and have themselves or have parents who have maintained and dwelt in a home at sometime during the period from June 4, 1924, through August 14, 1963, on lands of the Eastern Band of Cherokee Indians in the Counties of Swain, Jackson, Graham, Cherokee and Haywood in North Carolina;
- (c) All direct lineal descendants of persons identified in section (a) who apply for membership after August 14, 1963, and who possess at least 1/16 degree of Eastern Cherokee blood.
- (d) All direct lineal descendants of persons identified in section (a) who apply for membership after December 1, 2011, who possess at least 1/16 degree of Eastern Cherokee Indian blood, and apply for enrollment prior to their nineteenth birthday. This section does not apply to adopted individuals.
- (e) All direct lineal descendants of persons identified in section (a) who have been legally adopted outside the membership of the Eastern Band of Cherokee Indians, who apply for membership after December 1, 2011 and who possess at least 1/16 degree of Eastern Cherokee Indian blood, provided they:
 - (1) Were legally adopted as infants;
 - (2) Have lived their entire lives in a place sufficiently removed from the Qualla Boundary to preclude their contact with or knowledge of the Tribe; and
 - (3) Were unaware of their eligibility for membership in the Tribe.

Section 2. Rights of Members.

All persons accepted as members under Section 1, above, shall have the same rights as tribal members in accordance with this Constitution.

Section 3. Rights of First Generation Descendents

No person shall be entitled to the enjoyment of any lands belonging to the Eastern Band of Cherokee Indians as a tribe, or any profits accruing therefrom, or any monies which may belong to the Tribe, unless such person shall be an enrolled member of the Tribe. However, the first generation of an enrolled member of the Eastern Band of Cherokee Indians may enjoy all property, both real and personal, that is held in said enrolled member's possession at their death. First generation shall include all children born to or adopted by an enrolled member.

Section 4. Enrollment Ordinance.

The Tribal Council shall enact an enrollment ordinance consistent with this Constitution.

ARTICLE IX - INITIATIVE AND REFERENDUM

Section 1. Initiative.

The Tribal Council shall submit any proposed ordinance or resolution to popular initiative upon petition of at least thirty percent (30%) of the eligible voters of the Tribe, or upon the request of the majority of the members of the Tribal Council. The initiative election shall be held within sixty (60) days after receipt of the qualifying number of petition signatures or the Tribal Council request. The vote of the majority of the eligible voters in such initiative shall decide whether the proposed ordinance or resolution shall thereafter be in effect, provided that at least thirty percent (30%) of the eligible voters shall vote in such initiative.

Section 2. Referendum.

The Tribal Council shall submit any enacted ordinance, resolution or other official action of the Tribal Council to popular referendum upon petition of at least thirty percent (30%) of the eligible voters of the Tribe or upon the request of the majority of the members of the Tribal Council. The referendum election shall be held within sixty (60) days after the receipt of the qualifying number of petition signatures or the Tribal Council request. The vote of the majority of the eligible voters in such referendum shall decide whether the enacted ordinance, resolution or other official action shall thereafter be in effect, provided that at least thirty percent (30%) of the eligible voters shall vote in such referendum.

Section 3. Procedures.

Initiative and referendum elections shall be conducted by the Election Board and shall be held in accordance with the provisions of an election ordinance which shall include a section on initiative and referendum procedures.

ARTICLE X - ORDINANCES AND RESOLUTIONS

Section 1. Resolutions.

All final decisions on matters of temporary interest where a formal expression is needed shall be embodied in a resolution, noted in the minutes, and shall be available for inspection by members of the Tribe during normal business hours.

Section 2. Ordinances.

All final decisions on matters of permanent interest shall be embodied in ordinances. Such enactments shall be available for inspection by members of the Tribe during normal business hours.

ARTICLE XI - SOVEREIGN IMMUNITY

Section 1. Sovereign Immunity.

The Eastern Band of Cherokee Indians shall be immune from suit except to the extent it is expressly and explicitly waived pursuant to an act of Tribal Council, or as provided by this Constitution.

Section 2. Waiver for certain Indian Civil Rights Act purposes.

The Eastern Band of Cherokee Indians expressly and explicitly waives the Tribe's sovereign immunity for claims brought in the Cherokee Court System seeking injunctive or declaratory relief concerning individual rights guaranteed by this Constitution or the Indian Civil Rights Act. This limited waiver of sovereign immunity is prospective only; and shall only apply to acts occurring after the adoption of this Constitution. This section waives the Tribe's sovereign immunity only to the limited extent explicitly set forth herein.

ARTICLE XII - AMENDMENTS

This Constitution may be amended by a majority vote of the qualified voters of the Tribe voting at an election called for that purpose, provided that at least thirty percent (30%) of those entitled to vote shall vote in such election. It is the intent of this Article XVI that the provisions for "Secretarial elections" as required by the Department of Interior no longer apply to amendments to the Constitution of the Eastern Band of Cherokee Indians.

ARTICLE XIII - SAVINGS CLAUSE

All enactments of the Tribe adopted before the effective date of this Constitution shall continue in full force and effect to the extent that they are consistent with this Constitution.

ARTICLE XIV - TRANSITION PROVISIONS

Section 1. Current Legislative and Executive officers.

The current members of the Tribal Council and Principal Chief and Vice-Chief serving at the time of the adoption of this Constitution shall continue to serve in those offices until their successors are elected as provided in Articles IV and V above.

Section 2. Current Judicial Officials.

The current justices and judges appointed to the Cherokee Supreme Court and the Cherokee Court pursuant to Chapter 7 of the Cherokee Code shall continue in office until _____, by which time the justices and judges required by Article VI above shall have been nominated and confirmed. The court system created by Article VI above shall serve as the successor to the court system created by Chapter 7 of the Cherokee Code and all cases pending in the court system created by Chapter 7 of the Cherokee Code shall be transferred to and become cases of the court system created by Article VI above as of _____.

ARTICLE XV – CHARTER AND GOVERNING DOCUMENT REPEALED

This Constitution repeals and supersedes the Charter and Governing Document of the Eastern Band of Cherokee Indians.

ARTICLE XVI – ADOPTION OF CONSTITUTION

This Constitution, when adopted by a majority vote of the registered voters of the Eastern Band of Cherokee Indians, voting at a special election authorized by the Secretary of the Interior in which at least thirty percent (30%) of those registered in accordance with Secretarial regulations to vote shall vote, shall be submitted to the Secretary of the Interior for his approval, and, if approved by the Secretary of the Interior or by operation of law, shall be effective from the date of such approval.