

## CONSTITUTION OF THE CHEROKEE NATION 1999

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### **Preamble**

We, the People of the Cherokee Nation, in order to preserve our sovereignty, enrich our culture, achieve and maintain a desirable measure of prosperity and the blessings of freedom, acknowledging with humility and gratitude the goodness, aid and guidance of the Sovereign Ruler of the Universe in permitting us to do so, do ordain and establish this Constitution for the government of the Cherokee Nation.

## Article I. Federal Relationship

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The Cherokee Nation reaffirms its sovereignty and mutually beneficial relationship with the United States of America.

## Article II. Territorial Jurisdiction

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The boundaries of the Cherokee Nation territory shall be those described by the patents of 1838 and 1846 diminished only by the Treaty of July 19, 1866, and the Act of March 3, 1893.

## Article III. Bill of Rights

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The People of the Cherokee Nation shall have and do affirm the following rights:

#### **Section 1.**

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

#### **Section 2.**

In all criminal proceedings, the accused shall have the right to: counsel; confront all adverse witnesses; have compulsory process for obtaining witnesses in favor of the accused; and, to a speedy public trial by an impartial jury. The accused shall have the privilege against self-incrimination; and the Cherokee Nation shall not twice try or punish an accused for the same offense. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

#### **Section 3.**

The right of trial by jury shall remain inviolate, and the Cherokee Nation shall not deprive any person of life, liberty or property without due process of law, nor shall private property be taken for public use without just compensation.

#### **Section 4.**

The Council shall make no law prohibiting the free exercise of religion or abridging the freedom of speech, or the press, or the right of the People to peaceably assemble, or to petition the Nation for a redress of grievances.

## Article IV. Citizenship

### **Section 1.**

All citizens of the Cherokee Nation must be original enrollees or descendants of original enrollees listed on the Dawes Commission Rolls, including the Delaware Cherokees of Article II of the Delaware Agreement dated the 8th day of May, 1867, and the Shawnee Cherokees of Article III of the Shawnee Agreement dated the 9th day of June, 1869, and/or their descendants.

Notwithstanding any provisions of the Cherokee Nation Constitution approved on October 2, 1975, and the Cherokee Nation Constitution ratified by the people on July 26, 2003, upon passage of this Amendment, thereafter citizenship of the Cherokee Nation shall be limited to those originally enrolled on, or descendants of those enrolled on, the Final Rolls of the Cherokee Nation, commonly referred to as the Dawes Rolls, for those listed as Cherokees, Delaware Cherokees pursuant to Article II of the Delaware Agreement dated the 8th day of May, 1867, and the Shawnee Cherokees pursuant to Article III of the Shawnee Agreement dated the 9th day of June, 1869.

The Cherokee Nation recognizes the basic rights retained by all distinct People and groups affiliated with the Cherokee Nation, retained from time immemorial, to remain a separate and distinct People. Nothing in this Constitution shall be construed to prohibit the Cherokee–Shawnee or Delaware–Cherokee from pursuing their inherent right to govern themselves, provided that it does not diminish the boundaries or jurisdiction of the Cherokee Nation or conflict with Cherokee law.

### History

**Amended.** Initiative Petition Proposing an Amendment to Article IV, Section 1 of the Cherokee Constitution of 1999 and Article III, Section 1 of the Cherokee

Constitution of 1975, Determining Criteria for Citizenship into the Cherokee Nation, approved March 3, 2007.

### **Section 2.**

There shall be established a Cherokee Register, to be kept by the Registrar, for the inclusion of any Cherokee for citizenship purposes in the Cherokee Nation who presents the necessary evidence of eligibility for registration. The Council may empower the Registrar to keep and maintain other vital records.

(a) A Registration Committee shall be established. It shall be the duty of the Registration Committee to consider the qualifications and to determine the eligibility of those applying

to have their names entered in the Cherokee Register. The Registration Committee shall consist of a Registrar and two (2) assistants. All members shall be appointed by the Principal Chief and confirmed by the Council.

(b) There shall be a number assigned to every name, which is approved and entered into the Cherokee Register. This number shall be preceded by the three words, "Cherokee Registry Number."

(c) The decisions of the Registration Committee shall be subject to de novo review by the lower courts created by Article VIII.

### **Section 3.**

Registration as used in this Article refers to the process of enrolling as a citizen of the Cherokee Nation and is not the same as registration for voting purposes.

#### Article V. Distribution of Powers

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The powers of the government of the Cherokee Nation shall be divided into three (3) separate branches: Legislative, Executive and Judicial; and except as provided in this Constitution, the Legislative, Executive and Judicial branches of government shall be separate and distinct and no branch shall exercise the powers properly belonging to either of the others.

#### Article VI. Legislative

### **Section 1.**

The legislature shall consist of one legislative body to be called the Council of the Cherokee Nation.

### **Section 2.**

The Council shall establish rules for its credentials, decorum, and procedure, and shall elect a Speaker and a Deputy Speaker from its own membership to officiate over Council meetings. The Speaker may vote in all matters before the Council. The Speaker shall be third in line of succession to serve as Acting Principal Chief in case of removal, death, resignation or disability of both the

Principal Chief and Deputy Principal Chief until the disability be removed or a successor shall be elected.

### **Section 3.**

The Council shall consist of seventeen (17) members, who are citizens of the Cherokee Nation. Any citizen of the Cherokee Nation at least twenty-five (25) years of age on that date of the election may be a candidate for the Council. Each Council member shall be elected in the general election for a term of four (4) years and until his or her successor is duly elected and installed. All Council members shall be limited to two (2) consecutive elected terms on the Council. All Council members having served two consecutive terms must sit out one (1) term before seeking any seat on the Council.

The Council shall establish representative districts which shall be within the boundaries of the Cherokee Nation. Fifteen of these seats shall be apportioned to afford a reasonably equal division of citizenship among the districts, and the remaining two shall be elected at-large by those registered voters residing outside the boundaries of the Cherokee Nation voting at-large in accordance with this section.

The Council members representing districts within the boundaries must be domiciled within their district. The Council shall, within sixty (60) days of this Constitution taking effect, select the two at-large Council members to serve until the next regularly scheduled election.

All registered voters residing outside the boundaries of the Cherokee Nation, may, at the time of the first election to fill at-large Council seats, choose to continue to be registered to vote in the district in which they were previously registered. In the absence of making that choice, they shall be registered to vote at-large. Notwithstanding the above, citizens under the age of twenty-five (25) who reside outside the boundaries and who have not previously registered to vote, may make a single choice to register to vote in the district of their choice at the time of their first registration, failing which their registration shall be to vote at-large. All citizens age twenty-five (25) or older residing outside the boundaries not registered to vote at the time of the first election to fill at-large Council seats may only register to vote at-large. Citizens residing outside the boundaries who relocate within a district shall be subject to the requirements to vote in that district. Those residing within the boundaries must vote within the district of their residence.

The Council shall, within one year of this Constitution taking effect, establish a system of staggered terms for all seats on the Council to be organized into elections every two years.

### **Section 4.**

There shall be at least one regular session of the Council in the calendar year which shall convene on the second Monday in each January or at such other date as the Council shall determine. No business shall be conducted by the Council unless at least two-thirds (2/3)

of members thereof regularly qualified shall be in attendance, which number shall constitute a quorum. The session may not exceed a maximum of thirty (30) calendar days for pay purposes.

#### **Section 5.**

Special meetings of the Council may be called: (A) by the Principal Chief, (B) by the Deputy Principal Chief when he or she has the full powers of the Principal Chief as elsewhere defined, (C) upon written request of fifty-one percent (51%) of the members of the Council, or (D) upon the written request of ten percent (10%) of the number of registered voters who voted in the last general election of the Cherokee Nation. The purposes of said meeting shall be stated in a notice published not less than ten (10) days prior to the meeting, and the Council may not consider any other subject not within such purposes. No meetings may convene until thirty (30) days have elapsed after the adjournment of a prior session or meeting, unless called pursuant to Section 7 of Article VII.

#### **Section 6.**

All meetings of the Council and of its committees shall be open to the public except: (A) when the discussion shall concern employment, retention or discharge of personnel; (B) when the question of the moral turpitude of any citizen is discussed; and (C) when the decorum of the audience shall prejudice orderly administration of business. In the event that consideration of a subject shall take place in executive session, the vote shall take place in an open meeting.

#### **Section 7.**

The Council shall have the power to establish laws which it shall deem necessary and proper for the good of the Nation, which shall not be contrary to the provisions of this Constitution. The style of all bills shall be: "Be It Enacted By The Cherokee Nation". The style of all resolutions shall be "Be It Resolved By The Cherokee Nation".

#### **Section 8.**

No laws passed by the Council shall have retroactive effect or operation.

#### **Section 9.**

The Council shall have the power to remove elected and appointed officials in the Cherokee Nation and said removal must be conducted in accordance with Article XI of this Constitution.

## **Section 10.**

Every enactment which shall have been approved by a majority of the members in attendance at the Council shall, before it becomes effective be presented to the Principal Chief, who may approve the enactment by signing it; if not, the Principal Chief shall return it with objections to the Council, which shall enter the objections in the Journal and proceed to reconsider it. If, after such reconsideration, two-thirds (2/3) of the entire council shall agree to pass the enactment, it shall become fully effective and operational notwithstanding the objections of veto of the Principal Chief. In all such cases, the vote of the Council shall be determined by yeas and nays, and the names of the members voting shall be entered on the Council's Journal. If any enactment shall not be returned by the Principal Chief within five (5) days (Sundays and holidays excepted) after it shall have been presented, the same shall be law in like manner as if approved by the Principal Chief.

## **Section 11.**

The Council shall establish a continuing system of permanent publication for all laws of the Cherokee Nation and judicial opinions of the highest appellate court. The system shall provide for regular updating, indexing and digesting and shall be of public record at all times. The text of all laws, resolutions, judicial opinions and orders, except otherwise protected by law, and all other governmental publications, except those by Nation-owned entities, shall be in the public domain and free from encumbrances against use by the Citizens. This shall not constrain the Nation from copyrighting other aspects of governmental publications, except that citizens shall always have license for personal use of the copyrighted work without notice or fee.

## **Section 12.**

In accordance with Article 12 of the Treaty with the Cherokees, dated November 28, 1785 (Treaty of Hopewell), and Article 7 of the Treaty with the Cherokees dated December 29, 1835 (Treaty of New Echota), there shall be created the office of Delegate to the United States House of Representatives, appointed by the Principal Chief and confirmed by the Council. The Delegate shall be a citizen of the Nation and upon recognition by the United States shall be seated in accordance with federal law. The Delegate shall endeavor to participate in congressional activities and shall at all times advocate the best interests of the Cherokee People. The Delegate shall make regular reports to the Council and Principal Chief on congressional activities and administrative matters relating to federal law and policy and shall produce an annual report to the Cherokee People.

### **Section 13.**

In the case of removal, death, resignation or the inability to discharge the powers and duties of office of any Council member, such seat shall be filled in the following manner: If more than one year of the four-year term remains to be served, the Council shall authorize a special election in the district of the vacated seat to be conducted within ninety days, unless a general election is to be held within one hundred and twenty (120) days from the vacancy at which time this special election may be held as part of the general election; if one year or less of the four-year term remains to be served, the Council shall elect a replacement who would otherwise be qualified to serve from the district of the vacated seat.

#### **Historical and Statutory Notes**

Amendment approved for referendum by Resolution #21-11, passed by the Council of the Cherokee Nation on March 14, 2011, and signed by Principal Chief Chadwick Smith on March 21, 2011; approved by vote of the citizens of the Cherokee Nation on June 25, 2011.

### **Section 14.**

Members of the Council and all Executive Officers shall be bound by oath, provided in Article XIII, to support the Constitutions of the Cherokee Nation and the United States of America, do everything within the individual's power to promote the culture, heritage and traditions of the Cherokee Nation and to perform the duties of their respective offices.

#### **Article VII. Executive**

### **Section 1.**

The executive power shall be vested in a Principal Chief, who shall be styled "The Principal Chief of the Cherokee Nation". 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 the registered voters on the same day and in the same manner, except as otherwise provided by this Constitution, as they shall respectively vote for members of the Council in the year 2003 and every four years thereafter. The Principal Chief shall be elected by a majority of votes. The manner of determining contested elections shall be as directed by Cherokee law.

**Section 2.**

The Principal Chief of the Cherokee Nation shall be a citizen of the Cherokee Nation in accordance with Article IV; shall be domiciled within the boundaries of the Cherokee Nation for no less than 270 days immediately preceding the day of general election in which he or she seeks election; and, shall have obtained the age of thirty (30) years at the time of his or her election and be a citizen of the Cherokee Nation.

**Section 3.**

The registered voters shall elect a Deputy Principal 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 Deputy Chief shall be subject to the same term limitations as provided for the Principal Chief in this Constitution.

**Section 4.**

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 Deputy Principal 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 Deputy Principal Chief, or his or her inability to discharge the powers and duties of the office, the person who is then the Speaker of the Council shall succeed to the office of the Deputy Principal Chief for the balance of the term. In the case of temporary disability, said person shall serve as Acting Deputy Principal Chief for the duration of the disability and thereafter shall reassume the office of Speaker.

**Section 5.**

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

**Section 6.**

The Principal Chief and Deputy Principal Chief shall, at stated times, receive for their service a compensation not inconsistent with Article X.

## **Section 7.**

The Principal Chief may, on extraordinary occasions, convene the Council at the seat of government pursuant to Article VI, Section 5, and such notice and other laws as may be prescribed by the Council. The purposes of said meetings must be stated and the Council may consider only such matters as are specified in the call of the extraordinary meetings. Before the extraordinary meetings may be legally sufficient to conduct business, a quorum of the Council must be present.

## **Section 8.**

At one session of the Council annually, the Principal Chief shall deliver and communicate to the Council a message upon the condition of the Cherokee Nation; and shall recommend such matters to the Council as he or she shall judge expedient.

## **Section 9.**

The Principal Chief shall cause the laws of the Cherokee Nation to be faithfully executed, and shall conduct in person and in such manner as shall be prescribed by law, all communications and business of the Cherokee Nation. The Principal Chief may cause to be formed and operated, trusts, the beneficiary of which shall be the Cherokee Nation and these trusts shall be granted such powers as provided by law for public trusts. Authorization for these trusts, however, must be approved by a majority vote of the Council.

## **Section 10.**

The Deputy Principal Chief shall, by virtue of the office, aid and advise the Principal Chief in the administration of the government.

## **Section 11.**

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

## **Section 12.**

There shall be a cabinet composed of the following persons who shall be citizens of the Cherokee Nation: (1) Secretary of State, (2) Treasurer, (3) Secretary of Natural Resources. These persons shall be appointed by the Principal Chief and confirmed by the Council. The Council, on recommendation of the Principal Chief only, may create additional cabinet positions and departments. The Principal Chief shall prescribe the duties and responsibilities of cabinet members. Cabinet members shall be authorized to appoint such staff and other assistants as they deem necessary. The Council may, with recommendation

of the Principal Chief, abolish any established cabinet position or function or revise the title or responsibilities of any foregoing department or function.

### **Section 13.**

There shall be created an office of Attorney General. The Attorney General shall be a citizen of the Cherokee Nation, admitted to practice law before the highest court of any state of the United States. The Attorney General shall represent the Nation in all criminal cases in the courts of the Nation, and in all civil actions wherein the Cherokee Nation is named as a party, and shall have such other duties as the Council may prescribe by law. The Attorney General shall be appointed by the Principal Chief and confirmed by the Council for a term of five (5) years. The Attorney General shall be authorized to designate such prosecutors and other assistants as deemed necessary to carry out the duties of office, and may only be removed from office in conformance with Article XI.

### **Section 14.**

There shall be created an office of Marshal. The Marshal shall be a citizen of the Cherokee Nation and possess such training and experience in law enforcement as prescribed by law. The duties and authority of the Marshal shall be prescribed by law. The Marshal shall be authorized to deputize such officers as necessary to carry out the law enforcement needs of the Cherokee Nation. The Marshal shall be appointed by the Principal Chief and be confirmed by the Council for a term of five (5) years. The Marshal may only be removed from office in conformance with Article XI.

The terms of the Marshal and the Attorney General shall not be concurrent.

### **Section 15.**

A vacancy of an elected office by reason of removal, death, resignation or disability of the elected official, for which this Constitution does not provide a process for seating a replacement to serve out the term, shall be filled by appointment by the Principal Chief with confirmation by the Council.

## **Article VIII. Judicial**

### **Section 1.**

The Judicial powers of the Cherokee Nation shall be vested in a Supreme Court and such lower courts as the Council shall from time-to-time ordain and establish. The Judicial Appeals Tribunal shall become known as the Supreme Court of the Cherokee Nation. The Supreme Court shall be composed of five (5) members all of whom must be citizens of the

Cherokee Nation and be admitted to practice law before the highest Court of any state of the United States.

## **Section 2.**

Justices of the Supreme Court shall be appointed by the Principal Chief and confirmed by the Council to serve terms of ten (10) years each after expiration of the initial terms as follows: Seat 1: ending 12/31/2000, Seat 2: ending 12/31/2002, Seat 3: ending 12/31/2004, Seat 4: ending 12/31/2006, Seat 5: ending 12/31/2008. An appointment to the Supreme Court shall take place once every two (2) years, except in the case of filling a vacated seat on the Court for the remainder of that term. The Council shall, within six (6) months of this Constitution taking effect, pass such laws as are necessary for carrying into effect the provisions of this section.

## **Section 3.**

Judges of the District Court shall be citizens of the Cherokee Nation, and shall be admitted to practice law before the highest Court of any state of the United States, and shall be appointed by the Principal Chief and confirmed by the Council to serve terms of four (4) years each. In the event of a judicial vacancy due to death, resignation, or removal from said office, any successor duly appointed and confirmed shall only serve the balance of the term of the vacancy being filled.

## **Section 4.**

The original jurisdiction of the Supreme Court shall extend to a general supervisory control over all lower courts. General supervisory control does not include suspension, removal, or disciplinary action of any member of the judiciary. These powers are specifically reserved for the Court on the Judiciary as prescribed in Section 5 and/or Article XI.

The Supreme Court shall employ an Administrator, who shall have general administrative duties in the judicial branch. The Justices of the Supreme Court shall have supervisory authority over the Administrator.

In support of its original and appellate jurisdiction, the Supreme Court shall have power to issue, hear and determine writs of habeas corpus, mandamus, quo warranto, certiorari, prohibition and such other remedial writs as may be provided by law and may exercise such other jurisdiction as may be conferred by statute. The appellate jurisdiction of the Supreme Court shall extend to all cases at law and in equity arising under the laws or Constitution of the Cherokee Nation.

The Supreme Court shall promulgate rules of procedure relating to its original and appellate jurisdiction to insure any litigant appearing before it receives due process of law

and impartial justice, together with prompt and speedy relief. Decisions of the Supreme Court shall be published and indexed and shall be final insofar as the judicial process of the Cherokee Nation is concerned.

#### **Section 5.**

There is hereby created a Court on the Judiciary. Each branch of the government shall select two members of the Court; one of whom shall be a member of the Cherokee Nation Bar Association and the other shall be a non-lawyer. The six members shall appoint a seventh member. The members of the Court on the Judiciary shall promulgate its own rules of procedure, assuring due process, to be submitted to the Council for review and approval. The authority of the Court shall include suspension, sanction, discipline or recommendation of removal. The members shall not be employees of the Cherokee Nation or any entities thereof. The Council shall pass such laws as are necessary for carrying into effect the provisions of this section. All members of the Court shall be citizens of the Cherokee Nation.

#### **Section 6.**

The District Courts of the Cherokee Nation shall be courts of general jurisdiction and shall be vested with original jurisdiction, not otherwise reserved to the Supreme Court, to hear and resolve disputes arising under the laws or Constitution of the Cherokee Nation in both law and equity, whether criminal or civil in nature. The Council shall enact, with advice from the judiciary, rules of procedure which shall insure that all litigants receive due process of law and impartial justice, together with prompt and speedy relief.

#### **Section 7.**

The Justices of the Supreme Court and Judges of the District Court shall receive a compensation which shall not be diminished during their continuance in office, but shall receive no other fee, gratuity or perquisite of office, nor hold any other position of title, trust or profit within the Cherokee Nation or any entity thereof, either directly or indirectly.

#### **Section 8.**

Members of the judiciary shall be subject to removal from office only for willful neglect of duty, corruption in office, habitual drunkenness, incompetency or any conviction of a felony, a crime under the laws of the Cherokee Nation that if committed in some other jurisdiction would be a felony, or a misdemeanor involving moral turpitude or offenses against the Cherokee Nation committed while in office.

## Article IX. Election

### **Section 1.**

There is hereby created a Cherokee Nation Election Commission. The Commission shall be an autonomous and permanent entity charged with the administration of all Cherokee Nation elections, in accordance with election laws. The Council shall enact an appropriate law not inconsistent with the provisions of this Constitution that will govern the conduct of all elections.

### **Section 2.**

No person who shall have been convicted of a felony charge under the laws of United States, or of any State, Territory, or Possession thereof, or a crime under the laws of the Cherokee Nation that if committed in some other jurisdiction would be a felony, shall be eligible to hold any office or appointment of honor, profit or trust within this Nation unless such person has received a pardon from the appropriate jurisdiction. Any person who holds any office of honor, profit or trust in any other tribe or Nation of American Indians, either elective or appointive shall be ineligible to hold simultaneously any office of honor, profit or trust of the Cherokee Nation unless approved by the Council.

### **Section 3.**

All elections shall be determined by secret balloting.

## Article X. Fiscal

### **Section 1.**

The fiscal year shall commence on the first day of October in each year, unless otherwise provided by law.

### **Section 2.**

The Council shall provide by law for annual expenditure of funds, and the source from which funds are to be derived, to defray the estimated expenses of the Executive, Legislative, and Judicial branches and the departments of government of the Cherokee Nation for each fiscal year. The budget shall not exceed estimated revenues.

### **Section 3.**

At least forty-five (45) days prior to the beginning of each fiscal year, the Treasurer shall cause to be made and presented to the Council an itemized estimate of revenues and expenditures for the ensuing fiscal year adhering to Generally Accepted Accounting Principles (GAAP).

#### **Section 4.**

The Council shall require that records be maintained and provided to the Council of all funds, monies, accounts and indebtedness and all other accounts bearing upon the fiscal interests, including but not limited to, any and all outside business interests, both for-profit and not-for-profit, of the Cherokee Nation by the use of an accounting system adhering to Generally Accepted Accounting Principles (GAAP). The annual financial statement shall be audited by a Certified Public Accountant and presented to the Council within six months following the end of each fiscal year. Unaudited reports will be submitted as required by the Council.

#### **Section 5.**

The Treasurer shall be authorized to accept all grants, donations of money, interest of funds of the Cherokee Nation, judgments and any and all other sources of monies available to the Cherokee Nation, for uses and purposes and upon the conditions and limitations for which the same are granted or donated. The faith of the Cherokee Nation is hereby pledged to preserve such grants and donations as a sacred trust, and, if or when designated, to keep the same for the use and purposes for which they were granted or donated.

#### **Section 6.**

The Council shall authorize the Treasurer to invest funds or money of the Cherokee Nation and determine the preference to be given to the security for such investments, the manner of selecting the securities, prescribing the rules, regulations, restrictions and conditions upon which the funds shall be loaned or invested, provided that no investment shall be in mortgages other than first mortgages only, and do all things necessary for the safety of the funds and permanence of the investments. If required by law, such investments would be subject to the approval of the Secretary of the Interior.

#### **Section 7.**

The credit of the Cherokee Nation shall not be given, pledged, or loaned to any individual, firm, company, corporation, or association without the approval of the Council. The Cherokee Nation shall not make any donations by gift, bonus, or otherwise, to any individual, firm, company, corporation, or association without the approval of the Council.

#### **Section 8.**

All laws authorizing the expenditures of money by and on behalf of the Cherokee Nation shall specify the purpose for which the money is to be used, and the money so designated shall be used for no other purpose. No monies or resources of the Cherokee Nation or any of its entities shall be used to pay for representation of a defendant in a criminal matter,

except where a public defender is authorized under Cherokee law. Annual expenditures shall not exceed the available funds.

#### **Section 9.**

General laws shall be enacted by the Council providing for the deposit of funds of the Cherokee Nation, and the depository thereof, and such funds shall be under the control of the Treasurer, under such terms and conditions as shall be designated by the Council and under such laws which shall provide for the protection of said funds.

#### **Section 10.**

No official, member or officer of the Council, Cabinet Member, employee of any official, Council, Cabinet, or subdivisions thereof, or any person employed in any capacity by the Cherokee Nation shall receive from any individual, partnership, corporation, or entity doing business with the Cherokee Nation directly or indirectly, any interest, profit, benefits or gratuity, other than wages, salary, per diem, or expenses specifically provided by law.

#### **Section 11.**

All officers, elected or appointed, who are authorized by this Constitution or any subsequent legislation to a position of trust over any land, property, accounts or monies, shall execute an official surety bond in the amount as may be required by the Council. Such surety bonds shall inure to the benefit of, and be paid for by, the Cherokee Nation for whose protection or surety the same shall be required. In no event shall said surety bond be other than by a Licensed Insurance Company, authorized to do business in the State of Oklahoma.

### **Article XI. Removal From Office**

#### **Section 1.**

The Principal Chief, Deputy Principal Chief, members of the Council, Attorney General and Marshal shall be subject to removal from office for willful neglect of duty, corruption in office, habitual drunkenness, incompetency or any conviction of a felony, or a crime under the laws of the Cherokee Nation that if committed in some other jurisdiction would be a felony, or a misdemeanor involving moral turpitude or offenses against the Cherokee Nation committed while in office.

#### **Section 2.**

Except as otherwise provided in this Constitution, all other appointed officials shall be subject to removal for cause, as prescribed by law.

### **Section 3.**

No official may be removed under Sections 1 or 2 of this Article or Section 8 of Article VIII except after trial before the Council, with the accused having been afforded due process and opportunity to be heard. Provided, removal under Sections 1 or 2 of this Article or Section 8 of Article VIII shall require a two-thirds (2/3) vote of the members of the Council.

### **Section 4.**

Separate from the Council's removal powers, the People of the Cherokee Nation reserve unto themselves the exclusive power to recall any elected official through petition and recall referendum. A petition must be signed by Cherokee citizens registered to vote. In the case of Principal Chief or Deputy Principal Chief, signatures must total a number equaling or exceeding fifteen percent (15%) of the total number of registered voters in the previous general election. In the case of district offices, signatures must total the greater of five hundred (500) or twenty-five percent (25%) of the total number of registered voters in that district in the previous general election. The signed petition shall be filed with the Election Commission to determine whether the signatures are valid. Said determination shall be made within thirty (30) days after the filing of same. Upon verification of the requisite number of signatures the Election Commission shall certify the petition as valid and notify the Council and the Secretary of State. Upon notification of a valid certified petition the Council shall immediately call for and approve a special recall election for the office in question within sixty (60) days. The special recall election shall be limited in scope to the voting populace for the elected office in question. Votes casts shall be tabulated and the results certified in the same manner as in general elections. A majority vote to affirm the official shall retain the official in office. A majority vote to recall shall immediately remove the official from office. In the event of a tie-vote the Council shall call a special meeting to conduct a tie-breaking vote. Elected offices vacated under this section shall be filled as otherwise provided in this Constitution.

### **Article XII. Employee Rights**

### **Article XII. Employee Rights**

No employee, who having served in a position at least one (1) year, shall be removed from the employment of the Cherokee Nation except for cause, and only after being afforded pre-termination due process. Provided, the right of such employee to seek redress in the Cherokee Nation courts shall not be abridged.

## Article XIII. Oath

### **Section 1.**

All officers elected or appointed shall, before entering upon the duties of their respective offices, take and subscribe to the following oath or affirmation: "I do solemnly swear, or affirm, that I will faithfully execute the duties of \_\_\_\_\_ of the Cherokee Nation, and will, to the best of my ability, preserve, protect and defend the Constitutions of the Cherokee Nation, and the United States of America. I swear or affirm further, that I will do everything within my power to promote the culture, heritage and traditions of the Cherokee Nation."

### **Section 2.**

The foregoing oath shall be administered by any person authorized by the Council to administer oaths. The oath shall be filed in the Office of the Secretary of State.

## Article XIV. Clans

### Article XIV. Clans

Nothing in this Constitution shall be construed to prohibit the right of any Cherokee to belong to a recognized clan or organization in the Cherokee Nation.

## Article XV. Initiative, Referendum and Amendment

### **Section 1.**

Notwithstanding the provisions of Article VI, the People of the Cherokee Nation reserve to themselves the power to propose laws and amendments to this Constitution and to enact or reject the same at the polls independent of the Council, and also reserve power at their own option to approve or reject at the polls any act of the Council.

### **Section 2.**

Any amendment or amendments to this Constitution may be proposed by the Council, and if the same shall be agreed to by a majority of all the members of the Council, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered into the Journal and referred by the Secretary of State to the People for their approval or rejection, at the next regular general election, except when the Council, by a two-thirds (2/3) vote, shall order a special election for that purpose. If a majority of all the registered voters voting at such election shall vote in favor of any amendment thereto, it shall thereby become a part of this Constitution.

### **Section 3.**

The first power reserved by the People of the Cherokee Nation is the initiative, and ten percent (10%) of the registered voters shall have the right to propose any legislative measures by petition and fifteen percent (15%) of the registered voters shall have the right to propose amendments to the Constitution by petition, and every such petition shall include the full text of the measure so proposed.

The second power is the referendum, and it may be ordered (except as to laws necessary for the immediate preservation of the public peace, health or safety), either by petition signed by five percent (5%) of the registered voters or by the Council as other enactments are effectuated. The ratio and percent of registered voters hereinbefore stated shall be based upon the total number of votes cast in the last general election involving the office of Principal Chief.

### **Section 4.**

Referendum petitions shall be filed with the Secretary of State not more than ninety (90) days after the final adjournment of the session or meeting of the Council which passed the bill on which the referendum is demanded. The veto power of the Principal Chief shall not extend to measures voted on by the People. All elections on measures referred to the People of the Cherokee Nation shall be had at the next regular general election except when the Council or the Principal Chief shall order a special election for the express purpose of making such reference. Any measure referred to the People by the initiative shall take effect and be in force when it shall have been approved by a majority of the votes cast thereon.

### **Section 5.**

Petitions and orders for the initiative and for the referendum shall be filed with the Secretary of State and addressed to the Principal Chief of the Cherokee Nation, who shall submit the same to the People. The Council shall make suitable provisions for carrying into effect the provisions of this Article.

### **Section 6.**

The referendum may be demanded by the People against one or more items, sections or parts of any enactment of the Council in the same manner in which such power may be exercised against a complete enactment. The filing of a referendum petition against one or more items, sections or parts of an enactment shall not delay the remainder of such act from becoming operative.

## **Section 7.**

If two or more amendments are proposed they shall be submitted in such manner that registered voters may vote for or against them separately.

## **Section 8.**

No proposal for the amendment of this Constitution which is submitted to the voters shall embrace more than one general subject and the voters shall vote separately for or against each proposal submitted; provided, however, that in the submission of proposals for the amendment of this Constitution by articles, which embrace a general subject, each proposed article shall be deemed a single proposal or proposition.

## **Section 9.**

No convention shall be called by the Council to propose a new Constitution, unless the law providing for such convention shall first be approved by the People on a referendum vote at a regular or special election. Any amendments, alterations, revisions or new Constitution, proposed by such convention, shall be submitted to the registered voters of the Cherokee Nation at a general or special election and be approved by a majority of the registered voters voting thereon before the same shall become effective. The question of such proposed convention shall be submitted to the citizens of the Cherokee Nation at least once every twenty (20) years.

Article XVI. Supersedes Constitutions of 1839 and 1976

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The provisions of this Constitution overrule, supersede, and repeal the provisions of the Cherokee Nation Constitution enacted the 6th day of September, 1839, and the provisions of the Constitution of the Cherokee Nation of Oklahoma enacted the 26th day of June, 1976.

Article XVII. Seat of Government

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The Seat of Government of the Cherokee Nation shall be at Tahlequah, Oklahoma.

Article XVIII. Adoption

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This Constitution shall become effective when ratified by the registered voters of the Cherokee Nation. It shall be engrossed on parchment and signed by the Principal Chief and

the President of the United States, or his authorized representative. It shall be filed in the office of the Cherokee Nation and sacredly preserved as the fundamental law of the Cherokee Nation. The Constitution shall be printed in both Cherokee and English, provided however, that the English version shall be controlling for all governmental and legal purposes. The Council shall enact laws in conformance with this Constitution within eighteen (18) months of its ratification, provided that the provisions for Article XI shall be enacted within six (6) months of its ratification.

## HISTORY

Adopted by the Delegates of the 1999 Constitution Convention on March 6, 1999; approved for release by the Constitution Convention Style Committee on July 30, 1999; approved for referendum by resolution passed by the Council of the Cherokee Nation on May 15, 2000, and signed by Principal Chief Chadwick Smith on May 24, 2000 (Resolution #31-00); approved by vote of the citizens of the Cherokee Nation on July 26, 2003 and certified by the Cherokee Nation Election Commission on August 7, 2003; ruled effective and ordered implemented by the Cherokee Nation Judicial Appeals Tribunal (now Supreme Court) on June 7, 2006 in Case #JAT-05-04.