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CONSTITUTION OF THE CATAWBA INDIAN NATION

March 16, 2001



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CONSTITUTION OF THE CATAWBA INDIAN NATION

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Preamble

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4 We, the people of the Catawba Indian Nation of South Carolina, a federally recognized sovereign
5 Indian Nation (hereinafter “The Catawba Indian Nation” or “Nation”), in order to establish an
6 effective tribal government, to improve our social and economic welfare, to preserve our lands and
7 cultural identity and to secure the benefits of organization for ourselves and our posterity, do hereby
8 proclaim and establish this Constitution of the Catawba Indian Nation. In doing so we reaffirm our
9 existence as a self-governing Nation since time immemorial. The people of the Catawba Indian
10 Nation, desiring to reaffirm our claim to the sovereign rights, which are common to all Native
11 Americans who share the heritage of freedom, proclaim this Constitution as a statement of the
12 principles of government, which shall guide our future and by which we will exercise our powers of
13 self-government for our common welfare. Preserve, secure, and exercise all the inherent sovereign
14 rights and powers of an Indian Nation.
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Article I- Territory and Jurisdiction

Section 1:1 Description of Territory

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20 Our homelands, which sustained the lives of our forebearers’, and to which they and we have
21 returned for refuge and rest, lie generally throughout the Southeastern United States and particularly
22 Within the region now known as the state of South Carolina. The jurisdiction of the Catawba Indian
23 Nation shall be the lands held in trust by the Secretary of Interior, for the use and benefits of its
24 members. Nothing in this article shall be construed to limit the ability of the tribe to exercise its
25 jurisdiction, based upon its inherent sovereignty as an Indian Nation.
26

Article II- Membership

Section 2.1 The Membership of the Catawba Indian Nation of South Carolina shall consist of:

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31 (a) All persons of Catawba blood whose names appear on the tribal roll of July 1,1943, February
32 25,1961, or July 24, 2000 final rolls as recognized by the Bureau of Indian Affairs and the U.S.
33 Department of Interior.
34 (b) All children of blood descent born to any enrolled member of the Catawba Indian Nation who meet
35 the criteria as called for in this Constitution.
36

Section 2.2 Terms and Conditions for Changes to the Roll:

- 37
38 (a) The General Council shall have the power to pass ordinances covering future membership of the
39 Catawba Indian Nation.
40 (b) The membership of the Catawba Indian Nation shall from time to time be adjusted to reflect the
41 births, deaths, and omissions.
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2 (c) The Roll Coordinator in conjunction with the Secretary/Treasurer will present these requests along
3 with supporting documents to the Executive Committee for review. When the Executive
4 Committee is satisfied as to the proof provided, then the roll changes shall be made.
5 (d) Supporting documents to be used as proof could include a genealogy lineal descent form, or birth
6 certificate (listing who parents are), or notarized sworn statement, or blood test if required, and death
7 certificates as required.
8

9 **Article III: Civil Rights**

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11 **Section 3.1 Incorporation of the Indian Civil Rights Act:**

12 The Catawba Indian Nation hereby incorporates by reference in Public Law 90-284 (codified at 25
13 U.S.C. 1301 - 1303, 1968 as amended) and otherwise known as the Indian Civil Rights Act.
14 The Catawba Indian Nation also reserves unto itself and its members the right to exercise the
15 traditional rights and privileges of members of this Nation, which are not in conflict with other
16 provisions of this Constitution.
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18 **Article IV: Government**

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21 **Section 4.1 Type of Government and Separation of Powers:**

22 The governing bodies of the Catawba Indian Nation are the General Council (when in session), and
23 the Executive Committee subject to the constraints of this Constitution. No branch shall exercise the
24 powers of the other or have authority over the other except as may be granted by this Constitution.
25 The General Council shall be composed of those members on the Tribal Rolls who are 18 years of
26 age or older on the day of the meeting or elections.
27

28 **Section 4.2 Judicial System:**

29 The General Council may adopt a Tribal Court System as allowed by law pursuant to Public Law
30 103-116 in the Settlement Act of October 27, 1993.
31

32 **Section 4.3 Vacancies and Removals from Office:**

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34 (a) **Mandatory Declaration of Vacancy.** In the event of the death, resignation, permanent removal
35 from the Tribal service area, or removal of any member of the Executive Committee or any other
36 elected official of the Nation from, or if such committee member or elected official is found guilty in
37 any court of a felony, or of a misdemeanor or other criminal offense involving dishonesty or moral
38 turpitude, the Executive Committee shall declare the office of the Committee member or official to
39 be vacant.
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2 **(b) Failure To Attend Meetings.** If a member of the Executive Committee fails to attend three
3 consecutive regularly scheduled Executive Committee meetings, without good cause, illness or other
4 cause beyond the control of the committee member, the Executive Committee shall by majority vote,
5 declare the office held by the absent committee member to be vacant.

6 **(c) Removal.**

7 Any member of the Executive Committee found guilty of gross misconduct or gross neglect of
8 duty shall be removed from the Executive Committee in the following manner:

9 (1) In the event that Fifteen percent (15%) of the voting age members of the Nation present a
10 written complaint against an Executive Committee member, it will presented to the General Council
11 when in session, alleging that a member of the Executive Committee has engaged in conduct
12 constituting gross misconduct or gross neglect of duty as defined in Section 4.3, together with
13 supporting evidence of the truth of such allegations, the Executive Committee shall examine the
14 complaint to determine its merits and its gravity.

15 (2) If upon such examination the complaint is determined sufficient on its face and is of a serious
16 nature warranting further inquiry, the executive committee shall appoint a Hearing - Committee
17 consisting of five members of the General Council who are not members of the Executive
18 Committee or among the members of the nation filing the complaint.

19 (3) Within 45 days of its appointment, or such reasonable time as may be extended by the Hearing
20 Committee, not to exceed 60 days, the Hearing Committee shall hold a public hearing in order
21 to take evidence related to the allegations and determine whether any further action is
22 necessitated by the complaint. The hearing procedures shall be recorded and shall be conducted
23 as an administrative hearing.

24 (4) The Executive Committee member being complained against shall be provided 30 days written
25 notice of the date, place and time of the hearing together with a copy of the complaint.

26 (5) During the hearing the complaining parties shall designate a representative to present their case.
27 The representative shall have the right to present testimony and other evidence relevant to the
28 issue of whether the Executive Committee member being complained against should be removed
29 from office and to cross-examine the accused, if the accused testifies and his witnesses and to
30 otherwise rebut the evidence presented by the accused.

31 (6) During the hearing the Executive Committee member being complained against shall have the
32 right to be represented by a person of his own choosing and at his own expense to confront his
33 accusers, to present testimony and other evidence relevant to the question of whether he should be
34 removed from office and to cross-examine the witnesses and to rebut the evidence presented by the
35 complaining parties.

36 (7) Within fifteen days of the conclusion of the hearing, the Hearing Committee shall file a written
37 report with the Executive Committee summarizing its findings and conclusions recommending a
38 dismissal of the complaint or removal from office of the Executive Committee member
39 complained against. Upon submittal of the report the work of the Hearing Committee shall be
40 complete and the committee shall immediately be dissolved.

41 (8) Upon receipt of the Hearing Committees' report the Executive Committee shall meet
42 in Executive session to consider the report and act on its recommendations. The Executive
43 Committee shall act on the hearing report by voting to remove the Executive Committee member
44 complained against from office, if this is the recommendation of the Hearing Committee. Any

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2 vote to dismiss the complaint or to remove the guilty Executive Committee member from office
3 must be by majority vote. Following any vote for removal, the Executive Committee shall
4 immediately enact a resolution declaring the office of the Executive Committee member
5 complained against to be vacant.
6 **(d)Filling Vacancies.** Any vacancy in the Executive Committee resulting from application of the
7 above provisions of this constitution, Section 4.3 a), b) or c), or for any other cause shall be filled
8 for the remainder of the term of the vacant office by the procedures of election to that office.
9

10 **Section 4.4 Oath of Office:**

11 Each elected official of the Nation, prior to assuming the duties of their office, must take the
12 following Oath of Office before the General Council.
13 “I, _____, do solemnly swear (affirm); that I will support, defend, uphold, and
14 enforce the Constitution of the Catawba Indian Nation and that I will faithfully and impartially fulfill
15 the duties of my office to the best of my abilities while always seeking to promote and protect the
16 best interest of the Catawba Indian Nation and its people, so help me God.”
17 The Oath will be administered by the Chief or Assistant Chief
18
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20 **Article V: General Council**

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22 **Section 5.1 Definition of The General Council:**

23 The General Councils shall be comprised of all members of the Catawba Indian Nation who are of
24 qualified voting age (18 years of age) on the day of a legally called General Council meeting.
25

26 **Section 5.2 Meetings and Votes of the General Council:**

27 These meetings shall be scheduled the third Saturday of January and July. At that time the Executive
28 Committee shall make reports on the status of the Nation and discuss any general business matters.
29 Recommendations for future topics of business or matters to be voted upon may be made from the
30 floor of the General Council, seconded from the floor, and placed on the agenda for the next
31 meeting. All General Council meetings will be chaired by the Chief; or in His/Her absence by the
32 Assistant Chief or other elected officials as called upon or deemed required. The election of officials
33 shall always be by secret ballot. Except as otherwise provided in the Constitution, all general votes
34 taken by the General Council shall be decided by a simple majority provided a quorum is present at
35 the time of the vote. A quorum shall consist of Fifteen (15) % of the eligible voters.
36

37 **Section 5.3 Agenda for General Council Meetings:**

38 (a)The agenda for meetings of the General Council shall be set by the Executive Committee and
39 include time for discussion for old business and new business. The agenda shall be posted in all
40 tribal government offices and made available for pickup in these offices at least twenty-one (21)
41 days in advance of the General Council meeting.
42 (b) Copies of the agenda will be mailed upon request from individual members.

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(c) Suggested topics of discussion may be presented or submitted to any Executive Committee person thirty (30) days prior to the scheduled General Council meeting.

(e) All minutes from the last General Council meeting must be read, and/or amended and approved at the beginning of every General Council meeting. The minutes will be approved by a majority show of hands.

Section 5.4 Procedure for Meetings:

Meetings of the General Council shall be governed by Robert’s Rules Of Order at all times. The Executive Committee may appoint with the approval of the General Council a Parliamentarian to facilitate meetings.

Section 5.5 Powers of the General Council:

(a) The General Council retains all powers not herein delegated to the Executive Committee.

(b) The General Council retains unto itself the right to propose legislation and amendments, which donot conflict with the powers and duties of the Executive Committee as provided by this Constitution.

(c) The General Council shall receive reports and information from the Executive Committee at the Jan. and July meetings on plans concerning management, and investments of the assets of the Nation and the progress of the plans for Economic Development.

(d)The General Council shall approve or disapprove the appointment of the members of the Election Board nominated by the Executive Committee.

(e) The General Council must vote on any amendments to this Constitution, under the procedures of Article 9.

(f) Special call meetings of the General Council can be called by a petition of fifteen (15%) of the voting age members of the tribe. All petitions will be verified as to the validity of the named petitioners. The special meeting will be held within 15 days of the verification. The date, time, and place of the meeting will be announced by the Chief

The Chief can call for special meetings at any time as he/she deems to be necessary.

Section 5.6 Visitation on the Reservation:

Visitors to the Catawba Indian Nation are subject to the Constitution, By - Laws and Resolutions of the Catawba Indian Nation. Authority of enforcement is vested in the Executive Committee to uphold the laws of the Catawba Indian Nation.

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Section 5.7 Reservation Home Site Application:

Reservation land can be claimed and utilized by tribal members by application to the Executive Committee for the purpose of home sites for families. Members must furnish proof of eligibility.

Article VI: The Executive Committee

Section 6.1 Qualifications:

To run for office a person must be at least 25 years of age, a member in good standing with the Catawba Indian Nation, be able to pass a criminal background check, drug screening, bondable and never convicted of a felony crime punishable by more than 1 year in prison, or the have received a complete pardon.

Section 6.2 Composition of Executive Committee:

- (a) The Executive Committee shall consist of a Chief, Assistant Chief; Secretary/Treasurer and Four (4) Committee/Council Members who are elected by secret ballot of the General Council.
- (b) To be eligible to vote, a member must be 18 years of age and on the Tribal Roll at the time of the election.
- (c) At the initial election to be held after the ratification of this Constitution, the positions of Chief and Secretary/Treasurer and the two Committee members with the highest vote totals shall be elected for a four-year term. The positions of the Assistant Chief and the next two Committee members with the second highest vote totals will be for a Two (2) year term initially.
- (d) At each subsequent election the terms of office will be for four years.
- (e) Individuals are elected for four year, staggered, terms with no more than Four (4) individuals being voted upon at any given time. In the event of a vacancy during their term an election will be held in accordance to the rules deemed in the constitution. Their terms will be only for the duration of the terms of the vacancy that is filled.
- (f) These elected officials shall represent the Tribe in all business matters and public relations.
- (g) When the Executive Committee is in session, each Committee Member shall have one equal vote. The Chief shall vote only as a tie- breaker.
- (h)The Chief, or the Assistant Chief in his/her absence, shall be the official spokesperson for the tribe.
- (i) Each elected official can serve for only two (2) consecutive terms (8 years total)per position They must skip a term in order to run for the same position again.

Section 6.3 Powers and Duties of the Executive Committee:

The Executive Committee shall have all powers vested in the tribe through its inherent sovereignty or federal law. It shall execute these powers in accordance with established customs of the tribe and

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2 subject to the expressed limitations contained within the constitution or other applicable laws. These
3 powers include but are not limited to the following:

4
5 (a) The Executive Committee shall execute and carry out the laws and ordinances of the Nation as
6 enacted by the General Council and the Executive Committee shall exercise any authority delegated
7 to the Executive Committee by the General Council not already contained in this Constitution.

8 (b) The Executive Committee shall prepare and administer plans concerning management and
9 investment of the assets of the Nation.

10 (c) The Executive Committee shall prepare and adopt an annual operating budget for the Nation. It
11 shall present such budget information at the July meeting of the General Council. It shall update the
12 information at the January meeting of the General Council and report on compliance with the
13 budget.

14 (d) The Executive Committee shall negotiate and enter into contracts and other agreements with
15 Federal, State, and Local Governments on behalf of the Nation.

16 (e) The Executive Committee shall apply for and accept grant funding on behalf of the Nation.

17 (f) The Executive Committee shall conduct all routine daily business that is necessary to
18 operate an efficient and effective government on behalf of the tribal membership. This shall
19 include, but not limited to the hiring and firing of personnel, and contracting for goods and services
20 as needed to conduct business for the Nation.

21 (g) The Executive Committee is responsible for establishing written policies to be
22 used in all tribal businesses and entities. These policies will establish guidelines for the hiring and
23 firing of personnel. These policies will allow tribal employees who are members of the Catawba
24 Indian Nation their rights under the Indian Civil Rights Act.

25 (h) The Executive Committee shall enforce all laws and ordinances of the General Council and the
26 Executive Committee; as well as adopting and implementing all appropriate policies and procedures
27 governing financial, fiscal, personnel, and purchasing matters.

28 (I) The Executive Committee shall have the right to issues bonds as provided by the Internal Revenue
29 Codes.

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31 **Section 6.4 Executive Committee Meetings:**

32 Meetings will be held weekly and at any other time as called for on special occasions. At the 2nd
33 meeting of each month, at least one (1Hr.) shall be open to members of the Tribe to present their
34 opinions on tribal issues to the Executive Committee. Any member wishing to address will notify
35 the Secretary at least 48 hours prior to the meeting. The Executive Committee reserves the right to
36 meet on issues in closed session when it pertains to personnel and other confidential matters.

37 The Executive Committee reserves the right to forgo weekly meetings upon extenuating
38 Circumstances or the lack of business issues to be discussed.

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40 **Section 6.5 Recording Secretary**

41 The Executive Committee shall have the right to appoint a Recording Secretary. This person has no
42 voting powers in Executive Committee meetings. It is the responsibility of the Recording Secretary

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2 to record and transcribe the minutes of the Executive Committee Meetings and the General Council
3 Meetings. The minutes are the property of the Tribe and shall be kept in a secure and locked area at
4 all times. The transactions are to be reduced to minutes and distributed at each Executive
5 Committee meeting, affirming the accuracy of them, and recorded as official history and records of
6 the Tribe. At all times the Executive Member's vote will by roll call and duly recorded by the
7 Recording Secretary.

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9 **Article VII: Official Records of the Catawba Indian Nation:**

10 **Section 7.1 Description and Deposition of Records:**

11 (a) The official records and written history of the Catawba Indian Nation shall be kept in a location
12 designated by the Executive Committee and made known to the General Council ; this is to
13 include all former records.

14 (b) A copy of these records should also be kept in a second location in case of fire, theft, or weather
15 related hazards.

16 (c) These records are the property of the Catawba Indian Nation and will be accessible to tribal
17 members upon written request for information form being completed. These will become records
18 for the Tribe.

19 (d) These records include, but are not limited to, all minutes, statements, records, and ballots of
20 governing bodies of the Tribe. To see or view these records a written request must be made to the
21 Secretary/Treasurer office, and all public records will be provided upon request.

22 (e) No confidential information on another tribal member shall be divulged at any time.

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Article VIII: Elections

27 **Section 8.1 Administration of Elections**

28 The Executive Committee with the approval of the General Council shall establish an Election Board
29 for conducting elections. This Board will be charged with conducting the election, filing
30 procedures, voter registration, providing notices to eligible voters of the election and the counting of
31 votes. The Election Board shall be responsible for developing an Election Ordinance, which will be
32 presented to the Executive Committee for final approval. The ordinance must provide for voting to
33 occur over at least a two day period, with the voting poll open at least open for twelve hours each
34 day. The members of the Board shall serve a term of two (2) years.

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37 **Section 8.2 Voting Age:**

38 All members of the Catawba Indian Nation who are at least 18 years of age on the voting date and
39 are either a base enrolled or lineal descendant of a base enrollee shall be eligible voters.

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2 **Section 8.3 Voting Requirements:**

3 (a) All eligible tribal members must present an identification card (tribal identification card or
4 drivers license) prior to voting and their names will be verified as being on the final base
5 membership roll and checked off prior to voting.

6 (b) Elections under the new adopted Constitution by the General Council shall use the July 24,
7 2000 final base membership roll in determining who is eligible to vote.

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10 **Article IX: Amendments**

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12 **Section 9.1 Process:**

13 The Constitution and By - Laws of the Catawba Indian Nation may be amended by a majority vote
14 of the General Council when at least thirty (30)% of the qualified voters are participating. Any vote
15 of the General Council that involves an amendment of this Constitution shall only occur after at least
16 thirty days written notice is given to all qualified members.

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18 **Article X: Initiative and Referendum**

19 **Section 10.1 Initiative**

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21 The Executive Committee shall submit any proposed ordinance or resolution, except those regarding
22 land, housing or the adoption of tribal members. An initiative petition requires at least thirty percent
23 (30%) of the eligible voters of the tribe or upon the request of the majority members of the Executive
24 Committee. The initiative election shall be held within sixty (60) days after receipt of the qualifying
25 number petition signatures or at the Executive committee’s request. The vote of the majority of the
26 eligible voters shall decide whether the proposed ordinance or resolution should therefore be in
27 effect, provided, that at least thirty percent (30%) of the eligible voters shall vote in such initiative.

28

29 **Section 10.2 Referendum**

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31 The Executive Committee shall submit any enacted ordinance, resolution or other official action of
32 the Executive Committee, except those regarding land, housing or the adoption of tribal members, to
33 popular referendum upon petition of at least thirty percent (30%) of the eligible voters of the tribe or
34 upon the request of the Executive Committee. The referendum election shall be held within sixty
35 (60) days after the receipt of the qualifying number of petition signatures. The majority of the
36 eligible voters in such a referendum shall decide whether the enacted ordinance, resolution or other
37 official action shall therefore be in effect provided that at least thirty percent (30%) of the eligible
38 voters shall vote in such a referendum.

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Section 10.3 Procedures

Initiative and referendum elections shall be conducted by the election board and shall be held in accordance with the provision of an election ordinance which shall include a section on initiative and referendum procedure.

Article XI Savings Clause

Section 11.1 Enactments

All enactments or contracts with the Catawba Indian Nation adopted or approved before the effective date of this Constitution shall continue in full force and effect to the extent they are consistent with this constitution.

Article XII: Severability

Section 12.1 Statement of Severability:

In the event that an article, section, or subsection of this Constitution is found to be unconstitutional or otherwise invalid, that finding will not have any effect or bearing upon the constitutionality or validity of any other article, section, or subsection of this Constitution.

Article XIII: Supremacy

Section 13.1 Statement of Supremacy:

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

Article XIV: Adoption

Section 14.1 Process for Adoption of Constitution:

The Constitution of the Catawba Indian Nation shall be adopted by a majority vote of the General Council when at least thirty (30) % of the qualified voters are participating. Thirty (30) days prior to a vote on this constitution, all qualified members of the General Council shall receive a copy of this proposed Constitution for their review.

Section 14.2 Procedure to Follow Adoption:

(a) The results of the Constitution vote shall be certified, and the results announced at the next

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2 General Council meeting to be held within thirty days after the vote. The current members of the
3 Executive Committee shall serve as leaders of the Tribe, fully subject to the terms of this
4 constitution, until such time as an election is held in accordance with the Legislative Settlement and
5 this Constitution and new Executive Committee members are installed in office.
6 (b) Elections for a new Executive Committee shall be held no later than one hundred twenty (120)
7 days after the adoption of this constitution.
8 (c) Ballots will designate the names of all candidates, the office for which they are running, and the
9 terms for that office. This information shall be mailed at least 45 days prior to the election date.
10 The elected officials shall take office 30 days after the vote has been certified and they are fully
11 sworn into office by outgoing officers.

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CERTIFICATION OF ADOPTION

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19 I, the undersigned Secretary/Treasurer of the Catawba Indian Nation’s Executive Committee, hereby
20 certify that this Constitution is a true and correct copy of the Constitution adopted for the Catawba
21 Indian Nation by the General Council vote of _____ for; and _____ against, on the Month of
22 _____, Date _____, Year _____.

23

24

25 _____ Secretary/Treasurer

26

27 Witnessed By the Following Executive Committee Members:

28 _____ Chief

29

30 _____ Asst. Chief

31

32 _____ Executive Committee

33

34 _____ Executive Committee