

The Constitution of the Monacan Indian Nation (MIN)

Preamble

We, the Monacan Citizens, for the purpose of reclaiming, reviving, and rebuilding our culture, identity, religious rights, and community, for the education and advancement of our future, a future of endeavors which reflect our Indigenous values, derived from the natural Earth around us and the inherent truths therein, and of continuing life honoring our heritage on this land since time immemorial, to establish justice, to provide for the lawful operation of government and to preserve the sovereignty of our nation, do establish this constitution for the Monacan Citizens.

Article 1. Sovereignty

- I. The MIN shall possess sovereign powers of government by virtue of consent of the governed and territorial sovereignty. The Constitution of the MIN shall be supreme law of the land. All the existing native traditional customs of the MIN shall remain in full force and effect and shall not be infringed upon by the ratification of this constitution.
- II. All rights guaranteed by the Indian Civil Rights Act of 1968, As well as the American Civil Rights Act of 1964, including the right to bear and keep arms for self-defense, hunting, and sport; the right to due process, and the restriction that the tribal government shall not inflict cruel and unusual punishment, shall not be infringed upon by the creation of this government.
- III. As the MIN, we recognize individual rights to their religious beliefs and values and the right to practice therein so long as said practice does not infringe on the collective rights or cultural wellbeing of the MIN.
- IV. No Monacan lands owned prior to federal recognition shall be subject to use as collateral for debt nor shall be eligible for transfer of title from the MIN to another party. No MIN land shall be subject to alienation or encumbrance nor shall be eligible for conveyance or transfer of title from MIN to another party, with the exception of land in trust.
- V. We, the MIN, do not accept a diminishing of our sovereign status as a Nation and of our vested rights by the act of adopting this constitution.
- VI. As a traditional forest dwelling people of the woodlands, no logging of trees shall be permitted on any lands currently owned by the MIN as an entity or non-profit, and including, but not limited to: lands currently or in the future held by the state of Virginia for the benefit of the MIN, the United States or any of the constituent states for the benefit of the MIN. This shall not apply to trees planted by the MIN for use in arboriculture crop forestry. Trees may also be cut for reasons of safety adjacent to buildings on tribally owned property and voted on by the MIN. Bear Mountain, in

addition to all MIN owned land to date, will remain in its natural state, undisturbed by logging, agriculture or any other industry practiced by the MIN or outside parties.

- VII. RESERVED/RESIDUAL POWERS- The foregoing enumeration of powers shall not be construed to limit the powers of the MIN, but all powers not expressly entrusted to the General Council or the Tribal Council by this constitution, shall be reserved to the citizens of the MIN.

Article 2: Territory and Jurisdiction

Section 1. Territory

The Territory of the MIN shall include all lands, previous to and after federal recognition, currently owned by the MIN as an entity or non-profit, and including, but not limited to: lands currently or in the future held by the state of Virginia, the United States, any country or any other state or commonwealth, for the benefit of the MIN, the United States or any of the constituent states for the benefit of the MIN. The lands within the territory shall include all water, property, airspace, surface rights, subsurface rights, natural resources, and any interests therein, notwithstanding the issuance of any patent or right-of -way in fee or otherwise, by the governments of the United States or the MIN, now existing or in the future.

Section 2. Jurisdiction

Any person who enters the territory shall, by entering, be deemed to have consented to the jurisdiction of the MIN. Every license or permit issued under the authority of the MIN shall, include a provision submitting all parties and there assigns to the jurisdiction of the MIN. Any employee of the MIN, shall, by accepting employment, be deemed to have consented to the jurisdiction of the MIN. The legislature shall have the power to assert the sovereignty and jurisdiction of the MIN by law over all matters that affect the interests of the MIN. Nothing in this article shall be construed to limit the ability of the MIN to exercise its jurisdiction based upon its inherent sovereignty as an Indian Nation. All activities on MIN land are controlled by the people of the MIN. All previous traditional activities will continue in perpetuity. Nothing in this article shall be construed to limit the ability of the MIN to exercise its jurisdiction based upon its sovereignty as an Indian Nation.

Article 3: Citizenship

The Citizenship of the MIN shall consist of the following persons:

Section 1. Current Citizens

All persons whose names appear on the rolls of MIN to date, which have been supported by appropriate documentation connecting them with the Revised Historical Rolls and or the Descendants Rolls by direct descendant and have been approved by the MIN having a card issued, with enrollment number, and signed by the chief shall be considered citizens of the MIN. Those citizens issued enrollment cards by Chief Ronnie Branham or Phyllis Hicks without an enrollment number, shall be honored as citizens and must be issued a tribal roll number. Those

living citizens whose names appear on the Revised Historical Rolls must be issued a tribal enrollment card and number upon request if they do not already possess them.

Section 2. Department of Enrollment Established

- I. A Department of Enrollment shall be created in order to keep citizenship rolls current and maintain the history of the citizenship rolls.
- II. This department will also be charged with maintaining the integrity and accuracy of Tribal lineage and shall report to the tribal Council and chief, any inaccuracies.
- III. The Department of Enrollment shall be responsible for the administration of the application process, which will be reviewed by the enrollment panel.
- IV. The Department of Enrollment, may, levy a reasonable fee on new applications to cover processing and supplies for verification, subject to the approval of the Tribal Council and The General Council.

Section 3. Eligible Citizenship

Eligible citizenship in the MIN shall be limited to those individuals who can, through verified records, retrace their direct biological descent to a current or previously enrolled citizen or the original revised historical rolls and/or the Descendants Rolls.

Section 4. Disenrollment

Any citizen found to be an enrolled member of another Indian Nation may be disenrolled from the MIN.

Section 5. Appeal

Any person who has been denied citizenship may appeal to the Enrollment Panel as well as a group of four elders recruited by the enrollment department for the task. Any person who has been removed from the Citizenship Roll shall have the right to appeal for a fee, to the Judicial Council for a remedy in equity with this Constitution.

Article 4: The Rights of Citizens of the Monacan Indian Nation **shall have the following Rights enumerated:**

- I. The Tribal Council shall make no law prohibiting the free exercise of religion; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.
- II. The Freedom of Speech, and of the Press, and the right of the People peaceably to assemble, and consult for their common good, and to apply to the Government for a redress of grievances, shall not be infringed.

III. The Civil Rights Act of 1964 of the United States shall be adopted and guaranteed by the MIN.

IV. The Indian Civil Rights Act of 1968 of the United States shall be adopted and guaranteed by the MIN.

Article 5: Organization of the Government

Section 1. Branches of Government

The power of the government shall be divided among the Legislative Branch, The Judicial Branch, and the Executive Branch.

Section 2. Separation of Powers

No official of any branch of government shall exercise the authority granted in this Constitution or properly delegated by law to any other branch except as expressly directed or permitted by this Constitution.

Section 3. Location of Government

The capital of the MIN shall be Bear Mountain at approximately: (37.594376, 79.112986) Longitude, Latitude.

Section 4. Governing Rules

This Constitution is the framework by which all policies, procedures, codes and laws are created by and for the MIN.

Article 6: The Monacan Tribal Council/General Council

Section 1. Legislative Power

- I. Legislative power shall be vested in the Tribal Council and General Council of the MIN.
- II. The Tribal Council, acting as the governing body of the MIN, shall have the power to make laws and resolutions in accordance with this constitution which are necessary and proper for the good of the MIN upon approval of the General Council. All actions by the Tribal Council shall be embodied in a written law or resolution accessible to the enrolled citizens of the MIN. All actions by the Tribal Council shall be made by a majority vote of the members unless otherwise indicated by this Constitution. Tie votes in the Tribal Council shall be decided by the Chief. If the chief vetoes a Tribal Council decision, the Tribal Council may send that decision to the General Council for overruling. Laws and resolutions, which have been enacted, shall remain valid until amended or repealed. All actions of the Tribal Council are subject to referenda, the process to which is outlined in Article 10.
- III. The General Council, acting as the approving body of the MIN, composed of any enrolled citizen of voting age of the MIN participating as a part of the quorum of at least thirty five citizens for each meeting, shall have the power to vote on laws, codes, policies

and procedures, annual budgets, and purchases over \$250,000.00 as presented by Tribal Council for review. In addition, the general council shall have the power to proffer initial resolutions of election appeals before such appeals proceed to the Judicial branch. The General Council shall meet month at the tribal meeting in conjunction with the tribal council.

- IV. The Tribal Council shall not have the power to interfere with traditional/historical food production, ceremonial procedure, cultural preservation and continuation, or other traditional/historical community activities.
- V. The Tribal Council shall enact an annual budget by law, which shall include an appropriation for all activities of government. The annual budget shall be proposed by the executive branch, appropriated by the Tribal Council and presented to the General Council for approval.
- VI. A quorum for voting will be called with no less than a majority (half plus one) of Tribal Council members being present for daily business of the MIN and 2/3 majority Tribal Council vote for approval voting. A quorum for the General Council shall require no less than thirty-five (35) tribal citizens and a 2/3 majority vote for approvals.

Section 2. Composition of Tribal Council

The Tribal Council, being the traditional governing body of the Monacan citizens, shall be composed of a maximum of nine (9) members and a minimum of seven (7) enrolled citizens of the MIN, age 18 and older. There shall be three seats available for the historically connected satellite communities outside of the 100-mile radius. In order for a satellite community to have a representative on the Tribal Council, the community must be a cohesive group with at least 50 enrolled citizens who elect their own representative. The Assistant-Chief shall serve as one of council seats and shall have a vote. The Chief shall conduct the meetings of the MIN, and the Assistant Chief shall conduct the meetings of the Tribal Council. A quorum for tribal council meetings shall be no less than five (5) Tribal Council members.

Section 3. Terms

- I. MIN Tribal Council Members shall serve four-year terms of office, chosen by popular tribal vote. A council member shall be eligible to serve consecutive terms until such time as they may be voted out of office, impeached, or recalled under this Constitution. In the first election after the ratification of the constitution, the top four candidates with the most votes will serve four-year terms, while the bottom three will serve two-year terms.
- II. Resignation - A Tribal Council member may, by their own volition, resign from tribal council in writing and will be removed from council immediately upon receipt of written resignation by the Chief.

Section 4. Qualification

- I. With the exception of the initial election, Members of the Tribal Council shall be voted in for terms of four years, in staggered elections to be held every 2 years.
- II. In order to be eligible, a member of the Tribal Council shall be 18 years of age or older, and an enrolled citizen of the MIN.
- III. A Tribal Council member shall be able to physically attend all meetings.
- IV. A Tribal Council member shall have a permanent primary residence within 100 miles of the MIN Tribal Center to remain seated as a tribal council member, with the exception of the at large positions from historical satellite communities.

Section 5. Sessions

- I. The Tribal Council shall convene in the Bear Mountain area of Amherst County.
- II. Special sessions may be called by the Chief, by 2/3 of the sitting Council or by petition of at least 10% of Eligible Voting Tribal Citizens. The purposes and times of these sessions shall be announced at seven (7) day notice to Monacan Citizens via all official Monacan tribal media outlets.
- III. All meetings of the Monacan Tribal Council shall be open to the Monacan public, provided however, that the Tribal Council may, by specific legislation, set out circumstances under which meetings may be closed. All minutes of open meetings shall be posted to the secured site and/or available by request by any MIN Citizen.

Section 6. Compensation

The Tribal Council may receive reasonable compensation by law. No increase or decrease in compensation for the Tribal Council shall take effect until after the next general Election.

Article 7: Executive Branch

Section 1. Composition

- I. The Executive branch shall be comprised of a Chief and an Assistant Chief as well as any departments created by the Executive Branch.
- II. Each department shall have one executive director (or assistant or anyone who the department head delegates authority to) and such directors shall not be related via immediate family ties to the chief of the MIN.
- III. Any Departments created by the Executive Branch shall have an Executive Director, nominated by the Chief and confirmed by majority roll call vote of the Tribal Council, voted on by the General Council for approval and shall report to the Chief. (in accordance to Article 12 Administrative positions).

- IV. The Chief and Assistant Chief shall be elected by the enrolled eligible voters of the MIN by popular vote held in accordance with Article 9.
- V. The Office of Records Management shall secure and maintain at a minimum the following records of the MIN: treaties, compacts, contracts, constitution, codes, resolutions, laws, ordinances, court opinions, elections, memo, letters, rules, regulations, policies, bills, financial records, audits, audit letters, and reports, budgets, salaries, travel records, grant proposals, grant awards, grant reports, maps, land records, newspapers, reports, studies, and any other documentary, audio, or written records. The Office of Records Management shall develop systems to index and access all records maintained in the Office of Records Management or any other office. Citizens of the Monacan Nation shall have the right to inspect any record and shall have the right to obtain copies of any record within ten days for a reasonable fee as may be set by law, with the exception of enrollment or personnel records, which are not available for the public consumption.

Section 2. Chief of the Monacan Indian Nation

The Chief and Assistant Chief shall act as the Tribal representative contact for US Federal agencies, International bodies, state, local, municipal, county and corporate bodies.

Section 3. Terms

The Chief and Assistant Chief shall serve four-year terms. The Chief and Assistant Chief shall be eligible to serve consecutive terms until such time as they may be voted out of office, impeached, or recalled under this Constitution. The limit for consecutive terms is eight years for their respective offices; a former chief or assistant chief may run for office again after four years of inactivity.

Section 4. Qualifications

- I. The Chief and Assistant Chief shall be at least thirty years old and must be enrolled citizens of the MIN.
- II. To be eligible to run for office, the Chief and Assistant Chief must have served at least one term of four consecutive years on the Tribal Council.
- III. The Chief and Assistant Chief must be able to physically attend all meetings and major tribal functions in a calendar year, with the lone exception of being away from the area on official tribal business.
- IV. The Chief and Assistant Chief must have a permanent primary residence within 50 linear miles (as the crow flies) of the tribal center and must continue to reside within 50 linear miles to remain an official. Candidates for chief and assistant chief must live within the 50 linear mile radius at the time of running for office.

Section 5. Powers

- I. The Executive power of the MIN shall be vested in the Chief. The Chief shall execute administer, and enforce the laws approved by the Council and shall preside over meetings. If the chief is incapacitated the executive power will be vested in the assistant chief.
- II. The Chief shall not have a vote on the council, except in the event of a tie vote; the chief will have the power of veto in accordance with this constitution. The chief shall have the authority to bring a majority vote to the General Council at the next tribal meeting for a vote.
- III. The Chief, Assistant Chief, tribal administrator and accountant shall prepare and propose an annual budget. The proposed budget will be approved by the last business day in August by The Tribal Council and then the General Council.
- IV. The Chief and Assistant Chief shall have the power to negotiate and sign a contract, pending a majority supporting vote of 2/3 the Tribal Council. No contract over \$250,000 shall be valid which has not been previously authorized by the Tribal Council and the General Council.
- V. The Executive Director of the Department of Treasury shall be called the Treasurer. The Treasurer shall be bonded in a sufficient amount to protect financial assets of the MIN; the fees for bonding the treasurer shall be paid by the MIN.
- VI. The Treasurer may not have, at any time, been convicted of financial malfeasance and/or a felony conviction of any kind.
- VII. The Treasurer shall ensure that an annual audit of the MIN is conducted by a reputable accounting firm or certified public accountant from outside the MIN, pending approval by the Tribal Council in accordance with policies and procedures.

Section 6. Compensation

Upon funding, the Chief and Assistant Chief may receive reasonable compensation as established by law. No increase or decrease in compensation for the Chief or Assistant Chief shall take effect until after the next general Election.

Article 8: Judicial Branch

Judicial power of government shall be vested in a Judiciary Branch to be established by the Tribal Council and General Council in accordance with this constitution, including the creation of as many subsequent courts deemed necessary by the Tribal Council and General Council.

Article 9: Elections

Section 1. Voters

Any enrolled citizen of the MIN who is eighteen or older may vote in any election or special election.

Section 2. Election Commission

- I. There shall be an election commission to conduct all elections in a fair and impartial manner in accordance with laws of the MIN. The Election Commission shall select one of its members to serve as the Chairman of the Election Commission. The Election Commission shall have the power to set its own policies and the procedures for election in accordance with this Constitution with the approval of the General Council. The Tribal Council shall not have executive or administrative authority over the Election Commission, except in the event of malfeasance.
- II. An election commission shall be seated by the last day of October every other year.
- III. Members of the Election Commission shall not be nominees on the ballot of the current election they will be overseeing. Immediate family members of candidates may not serve on the commission.
- IV. The election commission will consist of the following: two citizens from Amherst County, two citizens from Rockbridge County, one at large citizen, and two Monacan elders.

Section 3. Nominations

To be considered eligible to run for office, the prospective candidate must be an enrolled tribal citizen with complete and correct paperwork. Nominations must be supported by ten signatures of verified Monacan citizens. A candidate must have been an enrolled citizen for a minimum of four years before being eligible to run for office.

Section 4. Qualifications for Nomination

In order to run for any office within the MIN you must be an enrolled citizen 18 years or older. A candidate must have no felony convictions that fall under the category of “Mala in-se”; “Mala Prohibitum” convictions do not apply.

Section 5. Ballots

- I. All elections shall be conducted by confidential written ballots. No proxy voting will be permitted.
- II. Absentee voting shall be permitted for eligible voters who do not reside in the Bear Mountain Area and for those who are unable to attend the polls there. All voters aged 62 or older will automatically be sent a paper ballot. The integrity of the Absentee Ballots will be insured by name and enrollment number and notarization of the individual's signature. The Ballot itself shall remain separate to the voter's information to retain confidentiality.

- III. The Election Commission shall be responsible for properly accounting for the ballots, utilizing non-Monacan volunteers to count the ballots.
- IV. In-person voting will be conducted at the Bear Mountain location. All absentee ballots must be mailed to the election commission's official P.O. Box in Amherst.

Section 6. Certification of Election Results

The Election Commission shall certify all election results within twenty-four hours of the closing of polls at the poll site. A tie vote in a General Election shall be decided in a Special Election. The chair of the election committee shall keep ballots for 60 days after the election.

Section 7. Election Challenges

All protests and challenges to the results of an election shall be initially filed with the Election Commission. The complainant shall have seventy-two hours to file a grievance with the Election commission. The Election Commission shall render a final determination on any protest or challenge within forty-eight hours, set forth, in writing, separate findings of fact and conclusions of law. If the Election Commission fails to render a final determination on an election protest or challenge within forty-eight hours, the original certification of the election results shall be deemed final for purposes of judicial review. An appeal of a final determination made by the Election Commission on any protest or challenge to the results of the election may be filed directly with the standing General Council. The General Council shall hear and decide all election appeals within twenty days, provided that, if this body fails to decide appeals within twenty days, then the decision shall lie with the Judicial branch, shall be final and no subsequent judicial review shall be permitted. In all instances of alleged wrongdoing, the proof will lie with the complainant.

Section 8. Oath of Office

A member of the Judicial Body, seconded by a Monacan elder, shall administer the Oath of Office for all newly elected officials of the MIN on a date to be set by the Election Commission. The Oath of Office, which is to be developed by the Tribal Council of the MIN, shall require all elected officials to swear an oath and allegiance to serve all the citizens of the MIN, to refuse all gifts or favors in exchange for office action, and to refrain from providing gifts favors, or money in exchange for political gain, and to uphold the Constitution of the MIN.

Article 10: Referendum

Section 1. Referendum

Citizens of the MIN retain the right to petition for a popular vote on any law or decision made in the government. Upon receipt of a petition signed by at least 10% of eligible voters, any enacted or proposed law shall be subject to the votes in a Special Election. Tribal citizens possess the right to create a referendum or a new initiative.

Section 2. Procedures

- I. All petitions seeking a Referendum vote on a law shall be submitted to the Election Commission. Upon request, the Election Commission shall prepare and issue a petition form to the Petitioner along with a request for the correct number of individuals to constitute 10% of eligible voters of the MIN. (Step 1)
- II. Any eligible voter of the MIN may submit a Referendum petition to the Election Commission. The Election Commission shall have thirty calendar days to rule on the validity of the signatures on the petition, and if valid, the Election Commission shall submit the law to a popular vote in a Special Election which shall be held within sixty days. (Step 2)
- III. The majority of votes cast by the voters in the Special Election shall determine the success or failure of the Referendum, and if successful, the decision shall be binding upon the MIN. If unsuccessful, the original law or decision shall not be subject to additional referendum for 1 year.
- IV. The referendum shall be conclusive only if 20% of the eligible voters cast their ballots therein.

Article 11: Removal, Recall, and Vacancies

Section 1. Removal and Impeachment of Council members, Chief, Assistant Chief, or members of the Judiciary

- I. The Tribal Council of the MIN or tribal citizens shall have the power to call a Special Election to remove an elected official for good cause by a $\frac{3}{4}$ supermajority, or, by the entire remaining Tribal Council members if removing a fellow Tribal Council member. The charging body shall have the burden of proving good cause beyond reasonable doubt in front of general council. Any official subject to removal by referral to a Special Election shall be provided with adequate notice of thirty (30) days, be informed of the charges in writing, be given an opportunity to contest the charges, and prepare and present a defense including presenting witnesses and other evidence. The process to seek the removal of a public official shall not extend beyond ninety (90) days. General Council must unanimously uphold the removal, if not it goes to special election.
- II. Tribal Council members shall be subject to removal by Tribal Council/General Council or tribal citizen vote or by referral to a Special Election for good cause.
- III. Officials subject to a vote for removal from office will be given the opportunity to address a public hearing of Monacan citizens.
- IV. No more than one attempt to remove an elected official by Council referral to a Special Election shall be permitted during that official's term, except in the case of malfeasance or conviction of a felony while in office.

- V. If removed from office by the MIN or the Tribal/General Council of the MIN, an official may not be eligible for any elected office for a minimum of four years.

Section 2. Removal for Felony Conviction while in Office

Any person serving an elected or appointed position, who is convicted of a felony while in office, shall be brought before council for review provided that a person who is appealing a conviction shall be suspended from office without pay pending the outcome of the final appeal. Any elected or appointed official found guilty of a misdemeanor involving moral turpitude, gross neglect of duty, malfeasance in office, or misconduct reflecting adversely on the dignity or integrity of the MIN or Tribal government, may be removed from office by a majority vote of the Tribal Council and General Council. The burden of proof lies with the MIN.

Section 3. Removal and Vacancy

- I. Upon the removal, retirement, or death of an elected official, the Election Commission shall schedule a special election within ninety (90) days to fill the seat for the remainder of the term.
- II. Should the office of Chief be vacant; the Assistant Chief shall become the acting Chief until for the remainder of the term. During this time, the senior Tribal Council member (having been selected by a council vote which has passed in the form of a resolution), with the approval of the General Council, will become acting assistant chief for the remainder of the term.
- III. Tribal Council seats that become vacant due to premature exit from office will be filled by special election, to be held within ninety (90) days and to be properly advertised within five (5) working days to the MIN. Tribal Council seats that become vacant within 1 year of the end of the incumbent's term, shall remain vacant until the next election. The person elected in the special election will serve the remainder of the term of the seat they fill. Should there be no candidates to fill a seat during a regular scheduled election, or special election, that seat will remain vacant for one term. If the seat is uncontested, there will be no special election.

Section 4. Recall

- I. An elected or appointed official shall be subject to a recall vote in a Special Election, called by a petition of 10% of the eligible voters of the MIN or the majority of remaining Tribal Council, conducted in accordance with this Constitution.
- II. A majority of the voters in the Recall Special Election shall determine the success or failure of the Recall Special Election. Upon a successful recall, the Election Commission shall declare the seat vacant.
- III. The recall vote shall be conclusive only if at least 20% of the eligible voters cast their ballots therein.

- IV. No more than one attempt to remove an elected official by Recall shall be permitted during that official's term, except in the case of malfeasance.

Section 5. Recall Limits

No Recall petition shall be initiated against any elected official before six months has elapsed from their inauguration into office.

Article 12: Administrative Positions

Section 1. Creation of Administrative offices and departments.

- I. The Tribal Council and Chief shall create Administrative offices and with approval from the General Council of the MIN.
- II. Administrative Department head positions shall be filled by eligible applicants following employment codes once a department has three or more employees.

Article 13: Ethics

Section 1. Statement of Ethics for Monacan Indian Nation (MIN)

This Code of Ethics is to establish ethical standards for the Monacan Indian Nation (MIN), its Leadership, its Committees, and its government and employees (hereafter, "officials and employees"). All those acting on behalf of the MIN are imbued with a sacred trust to act in the highest ethical manner, carrying out their duties in such a manner as to keep inviolate the best interest of the MIN and its citizens. Those Individuals elected, appointed, or employed shall not place their personal interest above that of the MIN.

Section 2. Purpose reference – Ethics Code for the Monacan Indian Nation (MIN)

Monacan Indian Nation (MIN) officials and employees shall maintain the highest standards of honesty, integrity, fairness and impartiality in their conduct as officials and employees and shall avoid any actions which would adversely reflect on the officials or the MIN. Officials shall take action in the best interest of the MIN and the tribal citizens, not in their personal interest. Officials shall not engage in behavior involving a conflict of interest, or acts that involve actual or apparent impropriety, as those terms are defined. Officials and employees shall carry out their duties and responsibilities in the highest ethical manner. Violation of this ethics code may constitute "neglect of duty" or "gross misconduct".

Section 3. Definitions reference

"Official Misconduct" means doing a forbidden act intentionally or willfully or the failure to perform a required duty.

"Tribal Property" means any form or real or personal property in which the Tribal Government has ownership, leasehold or other property interest as well as any right or other intangible interest that is purchased with governmental funds, including the services of contractor personnel, office supplies, telephone and other telecommunication equipment and services,

government mails, automated data processing capabilities, printing and reproduction facilities, government records, and government vehicles.

“Actual or Apparent Improprieties” means those acts involving an actual impropriety (such as illegal acts) while serving on behalf of the MIN; acts involving an abuse of power; acts involving dishonest conduct; or acts that would do a disservice to the MIN's reputation.

“Immediate Family” means spouse, parent, brother/sister, children, siblings of parents and/or other legal dependents or first cousins.

“Leadership” means any office regularly filled by a vote of the eligible citizens of the MIN.

“Standing Committees” are those committees, boards, authorities, teams or commissions whose members are appointed by the Leadership to carry out designated actions or provide advice and counsel to the elected Leadership.

“Employees” are those individuals hired or contracted by the MIN to carry out identified duties and responsibilities.

“Conflict of Interest” means an action taken by an official or employee of the MIN which is in conflict with their obligation to take actions in the best interest of the MIN. In most cases a conflict of interest arises because an individual has taken an action in their own personal interest rather than the interest of the MIN or MIN's citizens as a whole. A conflict of interest does not necessarily arise when the individual takes an action or position believing it to be in the best interest of the MIN even though others may disagree.

“Personal Interest” means an action taken by an official or employee which is intended to benefit them self and/or their immediate family rather than the MIN or MIN's citizens as a whole. Personal interest does not necessarily occur when an official or employee acts on a matter or issue that results in an incidental benefit to themselves and/or their immediate family. Personal Interest may be determined by an objective review of the circumstances surrounding the beneficial action.

Section 4. Actions reference

Never provide special favors or privileges to anyone, whether for remuneration or not, and never sell influence to gain special favors for or from any person, business or governmental entity

Never accept, for themselves or family members, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of tribal duties

Make no private promises of any kind, binding upon the duties of office, since a tribal official or employee has no private word which can be binding on public duty

Officials shall not act as official representatives of the MIN or make statements to any/all media to include social media, without express authorization of the Tribal Council and General Council. The Chief is the official representative of the MIN unless that authority is otherwise properly delegated.

Officials shall not become or remain employed as a tribal employee. A tribal employee who becomes an official shall resign their employment upon being sworn into office. An Official who accepts employment as an employee of the MIN or a tribal entity shall resign their office before commencing their first day of employment. Officials shall not take employment that is not compatible with their duties and responsibilities to the MIN as an Official of the MIN.

Officials shall not interfere with or participate in any tribal employment decisions related to their immediate family.

Officials shall not accept on their behalf, or on behalf of their immediate family, any gifts, monetary or otherwise, intended for the MIN.

Officials, employees or volunteers shall not knowingly make public any confidential information received in connection with one's duties, including but not limited to:

- I. Matters discussed during Tribal Council study or executive sessions.
- II. Matters protected as confidential under Tribal, federal or state law.
- III. Information given to a tribal official or employee with reasonable expectation that such information would be kept confidential

Improper conduct prohibited under this ethics section includes, but is not limited to the following:

- I. Abuse of power, such as using one's position to coerce, threaten, intimidate, or improperly influence a tribal citizen or tribal employee to provide personal, financial or political benefit to oneself or immediate family, or someone they have business or financial ties to, or for any other purpose, or using one's official title in Tribal government to conduct personal business;
- II. Intoxication or under the influence of illegal drugs while conducting official tribal business
- III. Misappropriate or misuse of Tribal funds or property
- IV. Unauthorized disclosure, concealing, removing, mutilating, or destroying Tribal records, or copying Tribal records for improper purposes
- V. Committing perjury or fraud
- VI. Violating the MIN's laws, ordinances, resolutions, rules, regulations or policies
- VII. Any other acts prohibited by Tribal, federal or state law.

This section applies to all members of the Leadership, appointed officials, committees of the MIN, tribal employees, and contract employees. The aforementioned shall refrain from soliciting or accepting, directly or indirectly, gifts, gratuities, favors, entertainment, loans, kickbacks or anything of value from a person, group or private organization seeking to obtain contractual or other business with the MIN, or having interests in that may be substantially affected by the performance or non-performance of the individual's duty, with the following exceptions: ceremonial and customary gifts given to dignitaries; food and refreshments of a nominal value in the ordinary course of a luncheon or dinner meeting; personal achievement awards for meritorious service; unsolicited advertising or promotional material of nominal value; loans on

customary terms to finance proper and usual activities on an equal basis as any other citizen of the MIN; gifts from family members.

Section 5. Bullying

The MIN shall have a zero-tolerance policy regarding abusive conduct by elected officials, paid employees, or volunteers in any capacity for the MIN. Abusive Conduct shall include:

- I. Repeated, health-harming mistreatment of one or more persons by one or more perpetrators.
- II. Conduct that is threatening, humiliating or intimidating.
- III. Interference with work that prevents work from being done.
- IV. Verbal abuse.

Section 6. Accountability

The Ethics Review Board shall be comprised of volunteers consisting of three (3) citizens of the MIN of voting age who are “unconnected” to current leadership as well as (4) elders of the MIN aged 62 or older. Membership on the Ethics Board shall be based on random draw from a pool of willing applicants each time a complaint is made.

In addition to the qualifications criteria set forth, individuals seeking to serve on the Ethics Review Board shall be of high moral character, understand and respect Monacan values, and possess the ability to use independent objective judgment in the discharge of their duties. To be eligible, candidates shall be an enrolled citizen of the MIN.

The enforcing official or body must provide a copy of the finding of fact report to the person alleged to have violated the ethics code, an opportunity for that person to present witness testimony and other evidence on their behalf before penalties are imposed, and an opportunity to request that the imposed penalties be reconsidered by the enforcing official or General Council within thirty (30) calendar days of the complaint.

Section 7. Sanctions

- I. Reprimand, which is defined as a public censure or condemnation administered by the Leadership
- II. Restitution or fine equal to the offense
- III. Suspension without pay provided that the suspension shall not exceed three months for any specific violation
- IV. Expulsion or removal from position
- V. A minimum of four (4) years ineligibility to run for tribal leadership positions if found guilty of punishable offence
- VI. If there is an investigation that indicates the complaint is outside the scope of the Ethics Review Board, it will be turned over to tribal or federal court as the situation dictates.

Article 14: Sovereign Immunity

Section 1. Sovereign Immunity

The MIN shall possess Sovereign Immunity. Nothing in this Constitution shall be deemed to waive Sovereign Immunity from suit. Only the Tribal Council with General Council approval, may authorize a waiver of Sovereign Immunity by law. Any authorization by the Tribal Council, with General Council approval, to waive Sovereign Immunity shall be specific, for a limited scope and duration, in writing.

Section 2. Immunity from Suit by Parties outside the Jurisdiction of the MIN

The MIN and its officials and employees acting in their official capacity or within the scope of their authority shall be immune from suit brought by any party not subject to the jurisdiction of the MIN except to the extent waived in accordance with law.

Section 3. Immunity from Suit by Parties within the Jurisdiction of the MIN

- I. The MIN and its officials and employees acting in their official capacity or within the scope of their authority shall be immune from suit except for suits in equity filed exclusively in the Courts of the MIN by any party subject to the jurisdiction of the MIN to enforce rights and duties established by law or this Constitution. Any citizen of the MIN may bring a suit exclusively in the Judicial Branch to enforce the terms of this Constitution.
- II. Sovereign Immunity shall not extend to Officials and Employees acting outside their official capacity or beyond the scope of their authority.

Section 4. Suits against the Legislature and Legislators

Because the Tribal Council has no authority to take executive actions except those specifically authorized by this Constitution and in accordance with this Constitution or authorized by the executive branch, the Tribal Council and individual Tribal Council members acting in their official capacity shall be immune from suit in law and equity.

When the Tribal Council is exercising an executive function specifically unauthorized by this Constitution, the Tribal Council shall not be immune from equity filed exclusively in the Judicial Branch by any party subject to the Jurisdiction of the MIN.

Section 5. Suits against Judges

- I. Judges and Justices shall be immune from suit in law and equity for actions taken in their official capacity.
- II. Sovereign Immunity shall not extend to Judges and Justices acting outside the scope of their capacity or beyond the scope of their authority.

Article 15: Taxation

The Tribal Council, seeing the need to bring it to the General Council for approval, may have power to lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the MIN, granted that the taxation is fairly based on income and level of well-being, and is derived from employment created by the MIN. This clause may apply to any and all compensation provided by the MIN to citizens as well as non-citizens.

Article 16: Amendments

Amendments to this Constitution shall be made through special election of all eligible voters of the MIN.

Section 1. Request for an election

- I. The MIN Tribal Council may initiate the process per requirements to amend the Constitution by unanimous consent and approval of the General Council unanimously. After this, the proposed amendment may go to election for approval or rejection.
- II. The citizens shall have the right to request a special election to amend the constitution by submitting a petition to the election commission in front of the citizens of the MIN signed by 10% of eligible voters.
- III. The election commission shall call a special election to amend the Constitution within ninety (90) days with a unanimous vote of the council or a receipt of a validated petition signed by 10% of eligible voters of the MIN. During which time, a general forum of the MIN must display the amendment to be voted upon for at least sixty (60) days through all official MIN media and communication outlets.

Article 17: Ratification

This Constitution shall immediately take effect upon ratification by the Citizens of the Monacan Indian Nation.

<u>Term</u>	<u>Definition</u>
MIN	Monacan Indian Nation
Administrative Position	hired paid employee of MIN
Amendment	change or addition designed to improve a text, piece of legislation
Annual Budget	MIN projected expenditures over the course of a year
Appeal	an application to higher court or group for a decision to be reversed
Application	written formal request
Ballot	a process of voting, in writing and typically in secret
Certification	formal confirmation of vote on election or resolution
Challenge	written formal objection/protest to a decision
Chief	fully elected senior tribal official and head of executive branch
Citizen/Citizenship	enrolled member of the Monacan Indian Nation
Code	type of legislation that purports to exhaustively cover a system of laws or a particular area of law
Contract	written formal agreement
Council	the 7 – 9 member body of the Monacan Indian Nation elected by popular vote, half of legislative branch
Executive Branch	Chief, Assistant Chief and office staff
Felony	a crime, typically one involving, violence
General Council	consisting of minimum of 35 tribal citizens present at a meeting to create a quorum, half of the legislative branch
Impeachment	process by which a legislative body levels charges against an official
Incumbent	official currently holding office
Immediate family	Parents, Grandparents, brothers, sisters, uncles, aunts and first cousins.
Judicial	branch of MIN government, adjudicating body of the MIN government
Law	code passed and enforced by executive branch
Legislative Branch	Tribal Council and General Council
Mala in-se	used to refer to conduct assessed as sinful/evil or inherently wrong by nature, independent of regulation governing the conduct
Mala Prohibitum	refer to conduct that constitutes an unlawful act only by virtue of statute, as opposed to conduct that is evil in and of itself
Malfeasance	any act that is illegal or wrong, an act that is legal but improperly performed

Misfeasance	engaging in an action or duty but failing to perform the duty correctly, can be unintentional
Non-feasance	failure to act that results in harm
Oath of Office	sworn pledge presented by Judge and Elder taken by MIN elected leadership in front of the MIN Citizens
Policy	general principles by which a government is guided in its management
Procedure	an established or official way of doing something
Qualification	an action or fact of qualifying or being eligible for something
Quorum	minimum number of members of a specific body present to make the proceedings of the meeting valid
Recall	procedure by which, voters can remove an elected official from office through a direct vote before that official's term has ended.
Referendum	direct and universal vote in which an entire body is invited to vote on a particular proposal. This may result in the adoption of a new policy or specific law
Resolution	written formal expression of opinion or intention made after voting
Rolls	list of citizens of the Monacan Indian Nation that have met criteria to be enrolled
Satellite Community	1 of 3 historical areas that Monacans migrated to - Maryland, Eastern Tennessee and West Virginia
Sessions	official meetings of specific governing bodies
Sovereign	the Monacan Indian Nation has the right to establish our own form of government, determine citizenship requirements, enact legislation and establish law enforcement and court systems.
Taxation	practice of government collecting money from its citizens of MIN, non-citizens and entities
Terms	fixed or limited period of time for elected or appointed officials
Vacancy	unoccupied position or job
Veto	right to reject a decision or proposal made by chief
Voter	citizen of the Monacan Indian Nation 18 or older that is enrolled.