

TABLED

Cherokee Council House
Cherokee, Qualla Boundary (NC)

Date: AUG 13 2010

ORDINANCE NO. 427(2010)

WHEREAS, the Fisheries and Wildlife Management Program and the Natural Resource Enforcement Office are both affected by the laws and regulations of Chapter 113 of the Cherokee Code pertaining to hunting and fishing; and

WHEREAS, these programs see a need to streamline and clarify portions of Chapter 113 and to include additional regulations and fines for better enforcement of the laws; and

WHEREAS, the Fisheries and Wildlife Management Program sees the need to increase its fishing permit fees in collaboration with the new electronic fishing permit system; and

WHEREAS, local vendors who sell the fishing permits receive a commission for doing so would also benefit from this proposed increase in fishing license fee increase.

NOW THEREFORE BE IT ORDAINED by the Tribal Council of the Eastern Band of Cherokee Indians assembled, at which a quorum is present, that Chapter 113 is hereby amended and shall read as follows:

Chapter 113 HUNTING AND FISHING*

*Cross references: Animals, ch. 19.

Sec. 113-1. Fish management program.

Sec. 113-2. Reserved.

Sec. 113-3. Trout hatchery.

Sec. 113-4. License/Permit.

Sec. 113-5. Prohibitions.

Sec. 113-6. Catch and release fishing area.

Sec. 113-7. Trapping.
Sec. 113-8. Big game.
Sec. 113-9. Small game and other species.
Sec. 113-10. Weapons.
Sec. 113-11. Dogs.
Sec. 113-12. Safety.
Sec. 113-13. Penalties.
Sec. 113-14. Court Costs
Sec. 113-154. Enforcement.
Sec. 113-165. Effective date.
Appendix A. _Schedule of civil penalties._

Sec. 113-1. Fish management program.

- (a) The Fisheries and Wildlife Management Program shall be responsible for managing the Cherokee trout program. The Manager of Fisheries and Wildlife Management shall be responsible for drafting fishing regulations and establishing fishing license/permit fees which shall become effective when approved by Tribal Council.
- (b) The Fisheries and Wildlife Management Program shall operate as an economically self-sustaining program with revenues generated from the sale of fishing permits.

(Res. of 11-13-1933; Res. No. 6, 11-6-1934; Res. No. 5, 11-5-1935; Res. of 11-13-1935; Res. No. 7, 10-11-1938; Res. No. 89, 12-8-1938; Res. No. 135, 7-5-1939; Res. No. A-4, 10-27-1939; Res. No. 34, 10-18-1950; Res. No. 71, 10-25-1950; Res. No. 56, 10-19-1953; Res. No. 39, 12-7-1955; Res. No. 268, 10-23-1959; Res. No. 410, 5-25-1961; Res. No. 685, 12-16-1963; Res. No. 745, 4-7-1964; Res. No. 771, 9-4-1964; Res. No. 773, 9-4-1964; Res. No. 783, 10-7-1964; Res. No. 839, 2-1-1965; Res. No. 840, 2-1-1965; Res. No. 877, 7-1-1965; Res. No. 887, 9-7-1965; Res. No. 978, 10-3-1966; Res. No. 21, 1-5-1967; Res. No. 40, 4-28-1967; Res. No. 16-S, 3-21-1968; Res. No. 152, 10-15-1969; Res. No. 125, 2-17-1972; Res. No. 260, 2-7-1975; Res. No. 47, 11-6-1975; Res. No. 326, 2-3-1977; Res. No. 74, 10-18-1983; Ord. No. 277, 5-12-2008)

Sec. 113-2. Reserved.

Editor's note: Ord. No. 277, ratified May 12, 2008, amended the Code by repealing former § 113-2 in its entirety. Former § 113-2 pertained to game wardens, and derived from Res. No. 289, ratified October 10, 1984.

Sec. 113-3. Trout hatchery.

The Cherokee Trout Hatchery shall be managed and operated by the Fisheries and Wildlife Management Program as a Tribal enterprise for the purpose of hatching and growing trout for

use in stocking ~~the~~ Cherokee Enterprise waters and streams, the trout program and for sale of fish to produce income. Income generated from the sale of fish shall be returned to the Tribal Fish Hatchery Budget for operational and restocking purposes.

(Ord. No. 277, 5-12-2008)

Sec. 113-4. Licenses and ~~Permits~~.

Hunting License

- (a) All persons hunting or trapping game on Cherokee Indian trust lands must possess, and have on their person while engaged in hunting or trapping, a valid Tribal hunting license.

(b) *Hunting Fees:*

(1) Enrolled members of the Eastern Band of Cherokee Indians may hunt with an enrollment card from the Eastern Band of Cherokee Indians at no cost. An enrolled member's enrollment card shall serve as his license which he/she must have in their possession for the duration of any hunting expedition on Tribal lands.

~~(2)(b) Enrolled members of the Eastern Band of Cherokee Indians shall hunt with an enrollment card from the Eastern Band of Cherokee Indians.~~ Those first descendants of EBCI enrolled ~~Tribal~~ members and non-enrolled spouses of ~~an~~EBCI enrolled ~~Tribal~~ members, who reside on Cherokee Indian trust lands, may be issued a hunting license by the Fisheries and Wildlife Management Program after a payment of ~~paying a fee of \$10.00~~50.00. The license shall be in effect for a period of one year.

(3) No other persons shall be eligible to obtain a Tribal hunting license.

- (c) The Tribal hunting license shall authorize the holder to engage in such hunting and trapping as shall be authorized by this Chapter and shall include hunting on non-posted areas of Cherokee trust lands, hunting big game and hunting with primitive weapons during special seasons.

Fishing Permits

- (a) All persons fishing within waters of Cherokee Indian trust lands must possess and have

on their person while engaged in fishing, a valid Tribal fishing ~~license~~permit. An enrolled member's enrollment card shall serve as his/~~her license~~fishing permit.

- (b) Enrolled members of the Eastern Band of Cherokee Indians shall fish with an enrollment card from the Eastern Band of Cherokee Indians.
- (c) Special Permits:

Special fishing permits are available for persons meeting specific criteria and shall only be issued through the Fisheries and Wildlife Management Office. These special permits will be issued upon verification and documentation of the enrolled member's tribal enrollment card/number.

- (1) Spouses of enrolled members (no charge).
- (2) Children of enrolled members including first descendants and adopted children (no charge).
- (3) Members of other federally recognized tribes may receive a seasonal fishing permit for a fee of \$50.00.

(d) Fishing Permit Fees:

Annual Permits

- (1) Catch and release waters permit for a fee of \$75.00.
- (2) Non-Catch and release waters permit for a fee of \$250.00.
- (3) Special annual permit for a fee of \$50.00, per Subsection (f)(3) above.

Daily Permits

- (1) 1 Day Permit for a fee of \$10.00.
- (2) 2 Day Permit for a fee of \$17.00.
- (3) 3 Day Permit for a fee of \$27.00.
- (4) 5 Day Permit for a fee of \$47.00.

Daily permit fees are required in addition to the one time annual fees as stated above.

Sec. 113-5. Prohibitions.

(a) Hunting.

- (1) It shall be unlawful to hunt or discharge a firearm within 100 yards of any commercial property, elderly housing, hospital, school, housing project, campground, motel, possessory home and yard, church or any other property used by the public for public gathering, unless such activity is performed while participating in a lawfully organized exercise.
- (2) It shall be unlawful to spotlight wild animals or birds.
- (3) Migratory game birds may be hunted or taken only during the times and in the manner permitted by Federal regulations.
- (4) It shall be unlawful to shoot into a squirrels nest.
- (5) It shall be unlawful to cut den trees.
- (6) It shall be unlawful to hunt, trap, kill or take any bird of prey, elk or deer. ~~wild turkey.~~
- (7) Reserved.
- (8) It shall be unlawful to trap any big game or any other game except a species specified in this Chapter within Cherokee Indian trust lands.
- (9) Game birds may be taken one-half hour before sunrise through one-half hour after sunset with shotgun, bow and arrow, dogs or by falconry.
- (10) Bear, wild boar, raccoon, opossum, and coyote may be taken day or night.
- (11) It shall be unlawful to hunt or trap on the possessory holding of another Tribal member without permission from the possessory holder.

- (12) ~~Reserved. It shall be unlawful to hunt or trap on Tribal lands described as Tribal Reserve without the express consent of the Tribe. Anyone wishing to hunt on any Tribal Reserve property must register with the Natural Resource Enforcement Office prior to doing so. Registration is good for one year from the date of registration.~~
- (13) Reserved.
- (14) It shall be unlawful to kill a female (hen) turkey at any time.
- (15) It shall be unlawful to bait wild turkey and deer. ~~with any type grain food for the purpose of killing or taking.~~
- (16) It shall be unlawful to kill wild turkey with a rifle or pistol.
- (b) *Fishing criminal offenses.*
 - (1) Seining of fish shall be unlawful.
 - (2) Buying or selling of game fish shall be unlawful.
 - (3) Giggling or spearing fish shall be unlawful.
 - (4) Dynamiting or poisoning of fish shall be unlawful.
 - (5) Destruction of fish in Tribal holding facilities shall be unlawful.
 - (6) Fishing in closed waters/ponds posted "No Fishing" or "No Trespassing" shall be unlawful.
 - (7) Destruction and or ~~damaging of~~ Tribal holding facilities shall be unlawful.
 - (8) Electro fishing shall be unlawful unless performed by the Tribe or through approved research.

(c) *Infractions.*

- (1) It shall be unlawful to exceed the fishing creel limit of 10 fish per day, per permit holder (includes catch of children fishing under a supervising adult's permit).
- (2) It shall be unlawful to fish without a permit.
- (3) Snagging of fish is unlawful.
- (4) Grabbing of fish is unlawful.
- (5) Chumming of fish is unlawful.
- (6) Fishing with more than one line is unlawful.
- (7) Setting of trotlines is unlawful.
- (8) Fishing in ~~a~~-closed streams, ponds or waters is unlawful.
- (9) Fishing before or after legal fishing hours is unlawful.
- (10) It shall be unlawful to fail to keep individual catch separate.
- (11) Failure to retain all trout caught shall be unlawful, except in the catch and release fishing section(s).
- (12) It shall be unlawful to retain illegally caught trout.
- (13) Camping in unauthorized areas for the purpose of fishing or hunting is not permitted.
- (14) It shall be unlawful to hunt on Tribal reserve lands without first registering with the Natural Resource Enforcement Office. Registration is required once per year.
- (154) It shall be unlawful to carry a rifle or shotgun on Tribal reserve lands during the closed hunting season unless it shall be unloaded and locked in a case or the trunk of a vehicle.

- (1~~65~~) It shall be unlawful to cut wood or timber, except for campsite use, on Tribal reserve lands at any time except in those areas designated for cutting by the BIA Forestry department.
- (1~~7~~6) It shall be unlawful to hunt any game on Sunday. For purpose of this Chapter, Sunday shall be defined as extending from sunrise on Sunday morning until sunrise on the following Monday morning.
- (1~~8~~7) It shall be unlawful to hunt or fish within the Territorial Jurisdiction of the Eastern Band of Cherokee Indians without the proper license and/or permit.
- (1~~9~~8) It shall be unlawful to fail to produce a valid license and/or permit to any Natural Resources Enforcement Officer when requested.
- (20) It shall be unlawful to bribe, cajole, threaten or harm a Natural Resource Enforcement Officer.

(Ord. No. 90, 2-6-1992; Ord. No. 754, 5-16-2001; Ord. No. 198, 6-28-2004; Ord. No. 277, 5-12-2008)

Sec. 113-6. Catch and release fishing area.

(a) *General guidelines.*

- (1) Non-enrolled fishermen, or non-special permit recipients must possess a valid Cherokee Indian Reservation Enterprise Waters Fishing Permit and the additional Special Use Permit associated with Trophy Trout Catch and Release Waters.
- (2) Open to fishing year-round (no closed season).
- (3) Fishing hours - One hour before sunrise to one hour after sunset.
- (4) No trout may be killed or had in possession.
- (5) Fishing may be done with artificial flies and streamers constructed of natural or synthetic materials, so long as all flies are constructed in a normal fashion on a single, barbless hook with components wound on or about the hook. Anything other than these items is prohibited.

- (6) Fishing must be done with tackle limited to fly rods, fly reels, and fly line with a maximum of 18 feet in leader material or monofilament line attached.
- (7) The use or possession of any natural bait, fish bait, bait paste and similar substances, fish eggs (natural or molded), or any other edible substance is prohibited.
- (8) Taking bait fish or natural fish-bait is prohibited.
- (b) A Catch and Release special use permit fee of (\$2075.00) is required ~~fee~~ for all non-enrolled persons and non-special permit recipients over 12 years of age.
 - (1) ~~Non-enrolled persons;~~
 - (2) ~~Non special permit recipient over 12 years of age.~~
- (c) Catch and release permit valid for one full year from the date of purchase.

(Ord. No. 277, 5-12-2008)

Sec. 113-7. Trapping.

- (a) It shall be legal to trap mink, muskrat, opossum, raccoon, skunk, weasel, wildcat and fox. It shall be illegal to trap any other species on Cherokee Indian trust lands.
- (b) It shall be unlawful to:
 - (1) Take wild animals by trapping with any steel jaw, leghold or connibear trap, unless it:
 - a. Has a jaw spread of not more than 7 1/2 inches;
 - b. Is horizontally offset with closed jaw offset of a least 3/16 inches for a trap with a jaw spread of more than 5 1/2 inches; (this provision shall not apply if the trap is set in water with a quick drown type set);
 - c. Is smooth edged and without teeth or spikes;

- d. Has a weather resistant permanent tag attached legibly giving the trapper's name and address.
- (2) Set steel jaw or leghold trap on dry land with a solid anchor with a trap chain longer than eight inches from the trap to the anchor unless fitted with a shock absorbing device approved by the Wildlife agent.
- (3) Remove or disturb any lawfully set trap or remove any fur bearing animal from the trap without permission of the trap owner.
- (4) Set or use a trap so that animals or birds will be suspended when caught.
- (5) Set or use a hook of any sort to take a wild animal or wild bird.
- (6) Every trap set on Cherokee Indian trust lands must be visited daily and any animal caught must be promptly removed.
- (7) The location of traps must be recorded in the Natural Resource Enforcement Office for safety and enforcement purposes; failure to notify the Natural Resource Enforcement Office by the trap owner shall be illegal and offenders shall be fined no less than \$50 per day, per trap in addition to court costs.
- (87) Baiting shall be allowed only on a hunter's own assigned possessory holding. Baiting shall be allowed on the possessory holding of another only with the owner's written permission. Baiting on individual possessory holding with the permission of the landowner and upon "Tribal Reserve Property" as defined in Sec. 47-16 of the Cherokee Code shall be permitted from April 1 through August 15. All bait must be removed from site no later than August 15. All hunters must notify ~~a Tribal wildlife agent~~the Natural Resource Enforcement Office of the location of all bait and/or bait sites no later than 3 days after establishment of such sites.
- (9) It shall be illegal to use and/or possess a trap, hand-made or manufactured, for the purpose of trapping big game animals as identified in Section 113-8, except for raccoon, opossum and fox, on Cherokee Tribal lands.

Editor's note: Ord. No. 277, ratified May 12, 2008, amended the Code by renumbering former §§ 113-6--113-14 as new §§ 113-7--113-15.

Sec. 113-8. Big game.

- (a) Big game, for purposes of hunting on Cherokee Indian trust lands, shall be limited to bear, wild boar, wild turkey, raccoon, opossum, fox and coyote.
- (b)
 - (1) The season for hunting of fox, raccoon, opossum, and coyote with dogs shall be from September 1 through the last day of February.
 - (2) The hunting of bear shall be from September 1 through December 31.
 - (3) There shall be no closed season on hunting of wild boar.
 - (4) The season for hunting wild turkey shall be from the third Saturday in April until the third Saturday in May (spring season).
- (c) The limits for bear which may be taken or killed shall be ~~one per day, one in possession~~ ~~or~~ two per season, per licensed hunter. There shall be no limit on wild boar. The limit for wild turkey shall be one per ~~day, one per~~ season (toms only), per licensed hunter.
- (d) It shall be unlawful to take or kill any bear weighing less than 100 pounds or to take or kill a female bear with a cub. It shall be unlawful to take or kill any bear cub. Abandoned and/or orphaned bear cub citations must immediately be reported to the Natural Resource Enforcement Office.
- (e) It shall be illegal for any person to sell any organ, skin or body part of any big game animal to any non-enrolled member or to any person beyond the boundaries of Cherokee Indian trust lands or to any person who will remove such organ, skin or body part from Cherokee Indian trust lands.

(Ord. No. 754, 5-16-2001; Ord. No. 198, 6-28-2004; Ord. No. 277, 5-12-2008; Ord. No. 678, 3-13-2009)

Note: Former § 113-7. See editor's note, § 113-7.

Sec. 113-9. Small game and other species.

- (a) There shall be an open season and no bag limit on the hunting of crow.

- (b) There shall be an open season on the hunting of groundhog from September 1 through February 28, with a bag limit of five and a season limit of 50.
- (c) The season for hunting of grouse shall be from October 1 through February 28 with a daily bag limit of three, a possession limit of six and a season bag limit of 30.
- (d) The season for hunting or box trapping of rabbit shall be from November 19 through January 31 with a daily bag limit of five, a possession limit of ten and season bag limit of 75.
- (e) The season for hunting squirrel shall be from October 1 through January 1 with a daily bag limit of eight, a possession limit of 16 and a season bag limit of 75.

(Ord. No. 754, 5-16-2001; Ord. No. 198, 6-28-2004; Ord. No. 277, 5-12-2008)

Note: Former § 113-8. See editor's note, § 113-7.

Sec. 113-10. Weapons.

- (a) Hunting with shotguns larger than ten gauge is prohibited. Hunting wild turkey will be with 12, 16, or 20 gauge shot guns only.
- (b) When hunting migratory game birds, shotguns must be plugged so as to limit their maximum capacity to three shells.
- (c) Hunting with bow and arrow shall be limited to bows having a minimum pull of 45 pounds. Broadhead type arrows with a width of 7/8-inch may be used for small game. Poisonous, drugged, barbed or explosive arrowheads are illegal and shall not be used for any purpose. ~~taking any game.~~
- (d) The following species may be hunted or killed with a .22 caliber pistol having a barrel of not less than 5 1/2 inches: rabbit, squirrel, opossum, raccoon, fur bearing animals and other legal non-game animals and birds.
- (e) A hunter or trapper lawfully taking wildlife by another method may use a pistol to dispatch an animal or bird otherwise taken if necessary.

(Ord. No. 754, 5-16-2001; Ord. No. 198, 6-3-2004; Ord. No. 277, 5-12-2008)

Note: Former § 113-9. See editor's note, § 113-7.

Sec. 113-11. Dogs.

- (a) During hunting or training, all dogs must wear a collar with a weather resistant I.D. tag showing the owner's name and address and the date of vaccination on the tag.
- (b) Dog training season for the training of hunting dogs shall be from July 23 through August 23. It shall be unlawful for any person to possess a weapon or climbing gear while running dogs during the training season.
- (c) An individual hunter may only have two dogs loose or running at any given time. No hunting party shall allow more than eight dogs to be loose or running at any given time. Additional dogs must be leashed or caged.
- (d) It shall be unlawful to remove a tracking device or identification collar from a dog.
- (e) It shall be unlawful to run dogs at any time other than training season (July 23 – August 23), or one of the hunting seasons (September 1- end of February).

(Ord. No. 754, 5-16-2001; Ord. No. 277, 5-12-2008)

Note: Former § 113-10. See editor's note, § 113-7.

Sec. 113-12. Safety.

Any person hunting with the use of firearms or bow and arrow, shall wear a cap or hat made of hunter orange material or an outer garment of hunter orange visible from all sides.

(Ord. No. 754, 5-16-2001; Ord. No. 277, 5-12-2008)

Note: Former § 113-11. See editor's note, § 113-7.

Sec. 113-13. Penalties.

- (a) Any violation of Section 113-5(c) or 113-11 shall be considered a civil infraction. A "civil infraction" is a civil offense against the Eastern Band of Cherokee Indians in which the remedy involved is liquidated damages, which have been pre-determined by the Tribal Council of the Eastern Band of Cherokee Indians. An infraction is not a crime and the punishment shall not affect or impair the credibility of a witness or otherwise of any person convicted thereof. The Tribal Council of the Eastern Band of Cherokee Indians shall from time to time determine a schedule of liquidated damages for violations of Section 113-5(b) and Fisheries and Wildlife Management shall cause said schedule to be published prominently in locations across the Territorial Jurisdiction of the Eastern Band of Cherokee Indians.
- (b) Any person subject to the criminal jurisdiction of the Cherokee Court who is convicted of an offense in violation of any provision concerning big game shall be fined not less than \$500.00 nor more than \$1,000.00 for each offense, and restitution in the amount sufficient to provide for restocking of the animal or animals involved in the violation, together with the revocation of all hunting privileges for not less than one nor more than three years.
- (c) Any persons subject to the criminal jurisdiction of the Cherokee Court who is convicted of an offense involving small game or other provisions of this Chapter not covered by Subsection (a) shall be fined not less than \$50.00 nor more than \$250.00 for each offense. Repeat offenders may also suffer the revocation of all hunting privileges for not less than one nor more than three years.
- (d) Any person who is not subject to the criminal jurisdiction of the Cherokee Court who violates any provision of this Chapter shall be subject to a civil penalty and fine of not less than \$50.00 nor more than \$1,000.00 for each violation, and restitution in an amount sufficient to provide for restocking of the animal or animals involved in the violation. Flagrant or intentional violation of the provisions of this Chapter may be referred to federal or state law enforcement officials for prosecution for trespass or other applicable criminal provisions, at the discretion of Cherokee law enforcement personnel.
- (e) All fines and liquidated damages collected by the Cherokee Court will be returned to the Natural Resources Enforcement Office for enforcement of Tribal laws and ordinances. All restocking fees collected by the Cherokee Court will be returned to the Fisheries and Wildlife program to be used by the Tribe in support of the Fisheries and Wildlife Management program.

- (f) Any person convicted of removing or destroying a tracking device or identification collar from a dog shall be subject to the penalties provided in Subsection.
- (g) Nuisance animals are animals that destroy personal or private property. Persons shall notify the Natural Resources Enforcement Office to investigate and determine the best course of action.
- (h) Any person subject to the criminal jurisdiction of the Cherokee Court who is convicted of an offense involving the illegal taking of black bear out of season shall be fined not less than \$2,500.00 nor more than \$5,000.00 for each offense, together with court fees and an amount of \$1,500.00 to provide for re-stocking of the animal or animals involved in the violation, together with the revocation of all hunting privileges for not less than one nor more than three years.

(Ord. No. 754, 5-16-2001; Ord. No. 277, 5-12-2008; Ord. No. 678, 3-13-2009)

Note: Former § 113-12. See editor's note, § 113-7.

Sec. 113-14. Court Costs.

Court costs shall be in addition to any fines. The amount of court costs shall be determined by the Courts.

Sec. 113-1~~5~~4. Enforcement.

- (a) Natural Resources Enforcement Officers are granted the powers of law enforcement officers within the territorial jurisdiction of the Eastern Band of Cherokee Indians, and beyond its boundaries to the extent provided by law, in enforcing all matters within their respective subject-matter jurisdiction as set out in this Section.
- (b) The jurisdiction of Natural Resources Enforcement Officers extends to all areas set out in this Chapter 113 of the Cherokee Code, and to all other matters within the Cherokee Code which it directs Natural Resources Enforcement Officer to enforce. The Natural Resources Enforcement Officers are specifically granted jurisdiction over all aspects of:
 - (1) Boating and water safety;

- (2) Hunting and trapping;
- (3) Fishing;
- (4) Activities in woodlands and on inland waters governed by Chapter 113 of the Cherokee Code.

In addition, Natural Resources Enforcement Officers have concurrent jurisdiction over all offenses under this Chapter involving "Tribal Reserve Property" as defined in Sec. 47-16 of the Cherokee Code.

- (c) Natural Resources Enforcement Officers are additionally authorized to arrest without warrant under the terms of Cherokee Rules of Criminal Procedure for felonies, for breaches of the peace, for assaults upon them or in their presence, and for other offenses evincing a flouting of their authority as enforcement officers or constituting a threat to public peace and order which would tend to subvert the authority of the Tribe if ignored.

Natural Resource Enforcement Officers shall be empowered to issue citations to any person for violations of this Chapter. The issuance of a citation shall be sufficient to charge a defendant for violation of criminal law or cite a defendant for commission of a civil infraction.

- (d) In addition to law enforcement authority granted elsewhere, a Natural Resources Enforcement Officer has the authority to enforce criminal laws under the following circumstances:
 - (1) When the Natural Resources Enforcement Officer has probable cause to believe that a person committed a criminal offense in his presence at the time of the violation the protector is engaged in the enforcement of laws otherwise within his jurisdiction; or
 - (2) When the Natural Resources Enforcement Officer is asked to provide temporary assistance by the Chief of Police of the Cherokee Indian Police Department or his designee or by the head or designee of the State or local law enforcement agency acting within the authority granted by a mutual agreement authorized by Sec. 15-3 of the Cherokee Code and the request is within the scope of the Agency's jurisdiction.

While acting pursuant to this Subsection, a Natural Resources Enforcement Officer shall have the same powers invested in law enforcement officers by ordinance or common law.

When acting pursuant to (2) of this Subsection a Natural Resources Enforcement Officer shall not be considered an officer, employee, or agent for the state or local law enforcement agency or designee asking for temporary assistance. Nothing in this Subsection shall be construed to expand the authority of Natural Resources Enforcement Officers to initiate or conduct an independent investigation into violations of criminal laws outside the scope of their subject-matter or territorial jurisdiction.

- (e) Natural Resources Enforcement Officers may serve arrest warrants, search warrants, order for arrest, criminal summonses, subpoenas, and all other process connected with any cases within their subject-matter jurisdiction. In the exercise of their law enforcement powers, inspectors are subject to provisions relating to law enforcement officers in general set out in Chapter 15, Chapter 15A, and elsewhere.
- (f) Natural Resources Enforcement Officers are authorized to stop temporarily any persons they reasonably believe to be engaging in activity regulated by the Fisheries and Wildlife Management Program to determine whether such activity is being conducted within the requirements of the law, including license requirements. If the person stopped is in a motor vehicle being driven at the time and the Natural Resources Enforcement Officer in question is also in a motor vehicle, the Natural Resources Enforcement Officer is required to sound a siren or activate a special light, bell, horn, or exhaust whistle approved for law enforcement vehicles under the provisions of N.C.G.S. 20-125(b) or 20-125(c), as adopted by the Tribe.
- (g) Natural Resources Enforcement Officers may not temporarily stop or inspect vehicles proceeding along primary highways of the Tribe without clear evidence that someone within the vehicle is or has recently been engaged in an activity regulated by the Fisheries and Wildlife Management Program. Natural Resources Enforcement Officers may temporarily stop vehicles, boats, helicopters, and other conveyances upon reasonable grounds to believe that they are transporting natural resource products; they are authorized to inspect any products being transported to determine whether they were taken in accordance with law and to require exhibition of any applicable license, receipts, permits, or other identification required to accompany such products.
- (h) Reserved.
- (i) Reserved.

- (j) The refusal of any person to stop in obedience to the direction of a Natural Resources Enforcement Officer acting under the authority of this Section is unlawful. Natural Resources Enforcement Officers shall be considered as law enforcement officers within the meaning of Sec. 14-70.16, 14-70.17, 14-70.19 and Chapter 20 of the Cherokee Code.
- (k) It is unlawful to refuse to exhibit upon request by any Natural Resources Enforcement Officer or other law enforcement officer any license or other item required to be carried by any law or rule as to which the Natural Resources Enforcement Officers have enforcement jurisdiction. It is unlawful to refuse to allow Natural Resources Enforcement Officers or other law enforcement officers to inspect weapons, equipment, fish, or wildlife that the officer reasonably believes to be possessed incident to an activity regulated by any law or rule as to which Natural Resources Enforcement Officers have enforcement jurisdiction.
- (l) Nothing in this Section authorizes searches within the cartilage of a dwelling or of the living quarters of a vessel in contravention of constitutional prohibitions against unreasonable searches and seizures.

(Res. of 11-6-1931; Res. of 11-8-1933; Res. of 11-15-1933; Res. of 10-5-1934; Res. No. 6, 11-6-1934; Res. of 10-18-1935; Res. of 11-13-1935; Res. No. 7, 10-11-1938; Res. No. 89, 12-8-1938; Res. No. 135, 7-5-1939; Res. No. A-4, 10-27-1939; Res. No. 34, 10-18-1950; Res. No. 71, 10-25-1950; Res. No. 56, 10-19-1953; Res. No. 39, 12-7-1955; Res. No. 366, 10-12-1960; Res. No. 535, 10-23-1962; Res. No. 40, 4-28-1967; Res. No. 407, 4-8-1971; Res. No. 211, 10-5-1975; Ord. No. 355, 2-7-1991; Ord. No. 462, 6-7-1991; Ord. No. 754, 5-16-2001; Ord. No. 277, 5-12-2008)

Note: Former § 113-13. See editor's note, § 113-7.

Sec. 113-165. Effective date.

Following ratification, this Chapter shall be published in the Cherokee One Feather for two consecutive weeks and shall be effective on the first day of the month following the second publication of this Chapter.

(Ord. No. 754, 5-16-2001; Ord. No. 277, 5-12-2008)

Note: Former § 113-14. See editor's note, § 113-7.

Editor's note: Ord. No. 754, adopted May 16, 2001, amended the Code by repealing former § 113-14, and adding a new § 113-14. Former § 113-14 pertained to the fowl and game reserve, and derived from Resolution No. 518 of February 19, 1987.

Appendix A. Schedule of civil penalties.

Violations of the provisions enumerated here shall subject the offender to a civil penalty upon the issuance of a citation for such violation as provided in this Section. The civil penalty, if not paid to the Cherokee Tribal Court prior to court date designated on the citation issued, may be recovered by the Tribe in a civil action in the nature of Tribal debt. Unless otherwise provided by a specific provision of this Code, such civil penalties shall be in the amount of \$100.00 for each violation, and each day any single violation continues shall be a separate violation. The following civil penalties are hereby established:

TABLE INSET:

Infractions §113-5(c)		
Number	Offense	Fine for Violation
1.	Exceeding creel limit (violation)	\$100.00
2.	Fishing without a permit	100.00
3.	Snagging of fish	100.00
4.	Grabbing of fish	100.00
5.	Chumming of fish	100.00
6.	Fishing with more than one line	100.00
7.	Setting of trotline	200.00
8.	Fishing in a closed streams, ponds or waters	100.00
9.	Fishing before or after legal fishing hours	100.00
10.	Failure to keep individual's catch separate	50.00
11.	Failure to retain all trout caught (outside of catch/release waters)	100.00

12.	Illegally caught trout	50.00
13.	And additional fine for each fish caught in violation of statutes	50.00
14.	Camping in unauthorized area	100.00
15.	Carrying a <u>loaded</u> rifle or shotgun on Tribal reserve lands During the closed hunting season	50.00
16.	Illegal cutting of wood or timber	75.00
17.	Hunting on Sunday	75.00
18.	Hunting or fishing without the proper license	100.00
19.	Failure to produce valid license <u>and/or permit</u>	25.00
20.	Failure to wear hunter orange while hunting	25.00
21.	Use or possession of illegal bait	100.00
<u>22.</u>	<u>Use of improper equipment</u>	<u>100.00</u>
<u>23.</u>	<u>Running dogs out of season</u>	<u>100.00</u>
<u>24.</u>	<u>Failure to report to NREO</u>	<u>100.00</u>
<u>25.</u>	<u>Bribing or attempted bribery of a Natural Resource Enforcement Officer</u>	<u>100.00</u>

****Note**** In addition to all fines, court costs shall be assessed and added in amounts determined by the Courts.

All other offenses are criminal violations and offenders within the criminal jurisdiction will be charged in Tribal Court; those outside the Tribe's jurisdiction will be referred to United States for prosecution.
(Ord. No. 277, 5-12-2008)

BE IT FINALLY ORDAINED that this ordinance shall be effective upon ratification by the Principal Chief and any prior ordinance or part thereof that conflicts with this ordinance is rescinded.

Submitted by the Fisheries and Wildlife Management Program and the Natural Resources Enforcement Office