

# TABLED

Cherokee Council House

Cherokee, North Carolina

JAN 03 2013

Date

ORDINANCE NO. 407 (2013)

WHEREAS, Cherokee Code Chapter 102 regulates Land Surveys within the territory of the Eastern Band of Cherokee Indians; and

WHEREAS, the intentional removal of survey flags has created unnecessary resurvey expenses that increase residential and commercial project construction expense; and

WHEREAS, for enforcement purposes, Chapter 102 needs to be amended to make the act of intentional removal of survey flags and unlawful act.

NOW THEREFORE, BE IT ORDAINED by the Tribal Council of the Eastern Band of Cherokee Indians assembled, at which a quorum is present, that Cherokee Code Chapter 117 is amended, to read as follows:

## **Chapter 102 - LAND SURVEYS**

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### **Sec. 102-1. - Intent.**

(a)

To protect the health, safety and welfare of the members of the Tribe, this chapter is written with the intent of improving the accuracy and consistency of land surveying and mapping activities, and land records, addressing the territory of the Tribe.

(b)

Within this chapter, "territory of the Tribe" means all lands held by the United States in trust for the Eastern Band of Cherokee Indians or its enrolled members,

and all other lands owned or acquired by the Tribe, notwithstanding the issuance of any right-of-way.

**Sec. 102-2. - North Carolina Coordinate System adopted.**

(a)

The Tribe hereby adopts the system of plane coordinates known as the "North Carolina Coordinate System" established in N.C.G.S. ch. 102, as the official survey base for the territory of the Tribe.

(b)

Persons performing land surveying and mapping activities addressing the territory of the Tribe shall use the North Carolina Coordinate System referenced in subsection (a) when performing those activities.

**Sec. 102-3. - Hierarchy of existing corner monumentation.**

(a)

Persons performing land surveying activities within the territory of the Tribe shall follow the priority assigned in the following list of corner monuments when determining the priority of existing monumentation. The following corner monuments are listed in descending order of priority:

(1)

Natural monuments called for on ancient maps or in ancient documents.

(2)

Existing U.S. Bureau of Indian Affairs Cherokee Agency concrete monuments with brass caps found undisturbed.

(3)

Existing U.S. Bureau of Indian Affairs Cherokee Agency concrete monuments found undisturbed.

(4)

Bureau of U.S. Indian Affairs Cherokee Agency markers found undisturbed (iron pipes with brass caps).

(5)

Iron pipes set by the U.S. Bureau of Indian Affairs Cherokee Agency found undisturbed.

(6)

Iron rods set by the U.S. Bureau of Indian Affairs Cherokee Agency found undisturbed.

(7)

Parker-Kalon or magnetic nails set by the U.S. Bureau of Indian Affairs Cherokee Agency found undisturbed.

(b)

Persons performing land surveying activities within the territory of the Tribe shall honor positions of found undisturbed monumentation whenever performing resurveys of lines.

**Sec. 102-4. - Establishment and use of network of control monuments.**

(a)

As soon as reasonably possible following the original effective date of this chapter, the U.S. Bureau of Indian Affairs Cherokee Agency shall establish or adopt a precise network of control monuments for survey use within the territory of the Tribe, using coordinates provided by the North Carolina Geodetic Survey.

(b)

As soon as the primary control monuments are established and their coordinates determined, the control network shall be extended beyond the primary monuments to facilitate coordinate use.

(c)

All maps of land surveys shall be prepared to reflect actual surveyed information. The base for bearings shall be the same as that used in the network of control monuments. Use of additional symbols and/or linetypes is permitted and shall be determined by the survey department of the U.S. Bureau of Indian Affairs Cherokee Agency, as shall the procedure used to perform corner ties.

(d)

The responsible surveyor shall show on the face of each map a bearing and distance tie from the nearest control network monument or balanced control network traverse station.

**Sec. 102-5. - Physical control.**

Any triangulation or traverse station or monument established within the territory of the Tribe according to the North Carolina Coordinate System may be used in establishing a connection between any survey and the above-mentioned system of rectangular coordinates.

**Sec. 102-6. - Use of name.**

The use of the term "North Carolina Coordinate System" on any map, report, or survey, or other document, shall be limited to coordinates based on the North Carolina Coordinate System as defined in N.C.G.S. ch. 102.

**Sec. 102-7. - Legality of use in descriptions.**

When describing the location of any survey station or boundary corner within the territory of the Tribe, it shall be considered a complete, legal, and satisfactory description

to define the location of such point or points by means of coordinates of the North Carolina Coordinate System.

**Sec. 102-8. - Use not compulsory.**

This article does not mandate that a person acquiring a right or interest in real property rely wholly on a description based upon the North Carolina Coordinate System.

**Sec. 102-9. - Damaging, defacing, or destroying monuments.**

Any person who willfully damages, defaces, destroys, or injures a station, monument or permanent mark of a survey, or imposes any obstacles to the proper, reasonable, and legal use of a station, monument or permanent mark of a survey, is guilty of a misdemeanor punishable by a fine not to exceed \$5,000.00, imprisonment for up to one year, or both, and may be ordered to pay restitution to the injured party.

**Sec.102-10. - Removal of Survey Flags.**

It shall be unlawful for any person to willfully remove a Tribal or U. S. Bureau of Indian Affairs survey flag within 60 days of placement. Any person who willfully removes a survey flags is guilty of a misdemeanor punishable by a fine not to exceed \$100.00 for each day, and each day any single violation continues shall be a separate violation.

BE IT FINALLY ORDAINED that all ordinances inconsistent with this ordinance are rescinded, and that this ordinance shall become effective when ratified by the Principal Chief.

*Submitted by: the Office of the Attorney General  
for the Tribal Lands Committee*