

**Cherokee Council House
Cherokee, Qualla Boundary (NC)**

Date: _____

ORDINANCE NO. _____ (2016)

WHEREAS, The Eastern Band of Cherokee Indians has authorized the Election Board to be an impartial board to oversee and conduct elections; and

WHEREAS, the Election Board is in a position to identify how the Tribe's election laws are applied and how changes or modifications to the election law would be beneficial to the spirit behind the laws and to the general public; and

WHEREAS, several changes or modifications have been identified by the Election Board and out of its responsibility to the public it brings those suggested changes before Tribal Council.

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 161 of the Cherokee Code shall be amended to read as follows:

Chapter 161 - ELECTIONS
ARTICLE I. - OFFICES

Sec. 161-1. - Election dates.

- (a) The Cherokee General Election shall be held on the first Thursday in September 1999, and each two years thereafter.
- (b) The Primary Election for the office of Principal Chief and Vice-Chief shall be held on the first Thursday in June, 2015, and each four years thereafter.
- (c) The Primary Election for the offices of Tribal Council shall be held on the first Thursday in June, 2013, and each two years thereafter.
- (d) A Primary Election run-off shall be held on the third Thursday in June, 2013, and each two years thereafter, if necessary.
- (e) A General Election run-off shall be held on the third Thursday in September 1999 and each two years thereafter, if necessary.

(Ord. No. 556, 12-28-2006; Ord. No. 409, 8-25-2008; Ord. No. 216, 9-30-2010; Ord. No. 85, 9-21-2012)

Sec. 161-2. - Tribal Offices.

- (a) The Principal Chief and Vice-Chief shall be elected and hold office for terms of four years.
- (b) The representatives elected to the Tribal Council shall be elected and hold office for terms of two years. The Tribal Council will consist of 12 members as follows: from Big Cove Township, two members; from Birdtown Township, two members; from Wolfetown Township, two members; from Yellowhill Township, two members; from Painttown Township, two members; from Graham and Cherokee Counties constituting one Township, two members.

- (c) The members of Cherokee School Board shall be elected to hold terms of office for four years. The terms of office shall be staggered, with one representative elected from Birdtown, Wolfetown, and Big Cove in 2001, and each four years thereafter, and one representative elected in Yellowhill, Painttown, and Big Y Community in 1999, and each four years thereafter.

(Ord. No. 556, 12-28-2006; Ord. No. 409, 8-25-2008; Ord. No. 216, 9-30-2010)

Sec. 161-3. - Qualification for offices.

- (a) In order to run for or serve as the Principal Chief or Vice-Chief, a candidate must:
- (1) Be an enrolled member of the Eastern Band of Cherokee Indians; and
 - (2) Be at least 35 years of age by the date of the primary election; and
 - (3) Have resided on Cherokee trust land continuously for at least two years immediately preceding the date of the primary election; and
 - (4) Continue to reside on Cherokee trust land during their term of office; and
 - (5) Be a registered voter with the Tribal Election Board.
- (b) In order to run for or serve as a member of the Tribal Council, a candidate must:
- (1) Be an enrolled member of the Eastern Band of Cherokee Indians; and
 - (2) Be at least 18 years of age by the date of the primary election; and
 - (3) Have resided in the township which he or she is to represent for at least 90 days immediately preceding the date of the primary election; and
 - (4) Continue to reside in the township in which the candidate was elected during their term of office; and
 - (5) Be a registered voter with the Tribal Election Board.
- (c) In order to run or serve as a member of the Cherokee School Board, a candidate must:
- (1) Reside in the community the candidate represents for at least one year immediately preceding the date of the primary election and continue to reside in that community during the term of office; and
 - (2) Be at least 21 years of age by the date of the primary election; and
 - (3) Have received a high school diploma or the equivalent; and
 - (4) Be a registered voter with the Tribal Election Board.
- (d) No person shall ever be eligible to file for or serve in any of the above Tribal Office, if:
- (1) The person has been convicted of, pled guilty to, or entered a no-contest plea to a felony; or
 - (2) The person has aided, abetted, counseled, or encouraged any person or persons guilty of defrauding the Eastern Band of Cherokee Indians, or has defrauded the Tribe, or who may hereafter aid or abet, counsel or encourage anyone in defrauding the Eastern Band of Cherokee Indians; or
 - (3) The person has been impeached by the Tribal Council or found guilty in any jurisdiction to have violated a law that would constitute a violation of Section 17 of the Charter and Governing Document of the Eastern Band of Cherokee Indians; or
 - (4) The person has resigned from office while under investigation or under pending charges for fraud, or a violation of the Tribal Charter or Tribal Law.

- (e) No person may file for, run for, or hold more than one Tribal elective office at any one time. However, a person may run for Tribal elected office while holding a different Tribal office, so long as the term of the office currently held will expire prior to or at the same time as the person would assume office if elected to the new office.
- (f) No person is eligible to hold the office for Principal Chief, Vice-Chief or Tribal Council member while simultaneously being a Tribal employee or an employee of a Tribal entity.
- (g) Members of the Tribal Council or School Board who change their residence from the township that they were elected to represent shall be removed from office by the Board of Elections if a petition is filed with the Board by an enrolled member registered in that township and upon such a finding made by the Board of Elections. Tribal Council or School Board members whose residence is challenged by such a petition shall have the right to a hearing by the Board of Elections at which they may present evidence and testimony in their own behalf. The Election Board's decision is the final decision to be made by a Tribal body, but may be appealed to the Tribal Court for further review.
- (h) No person is eligible to hold the office for Cherokee School Board member while simultaneously being an employee or student of the Cherokee Central School System.

(Ord. No. 556, 12-28-2006; Ord. No. 409, 8-25-2008; Ord. No. 216, 9-30-2010; Ord. No. 85, 9-21-2012)

Sec. 161-4. - Filing for office.

- (a) All persons filing for election to the office of Principal Chief, Vice-Chief, Tribal Council, or School Board must pay filing fee with the Tribal Finance Office between March 1 and March 15 of the year of the election. All candidates must complete filing forms to establish that they meet the qualifications of the office for which they file.
- (b) The Board of Elections shall review all applications and shall certify each applicant as either eligible or ineligible and notify the applicant of its decision by March 31st, within fifteen calendar days of the date of filing. Candidates shall be contacted by Board of Elections Office to pick up and sign for the notice of certification. Any adverse decisions shall be accompanied with a clear and concise statement as to the reason for denial and shall include a list of the applicant's rights to request a hearing before the Board of Elections.
- (c) Each candidate must pay a filing fee to the Tribal Finance Office. Candidates for the office of Principal Chief and Vice-Chief shall pay a filing fee of \$700.00. Candidates for the Tribal Council shall pay a filing fee of \$500.00. Candidates for the School Board shall pay a filing fee of \$350.00. All fees are non-refundable and shall be paid by cash, cashiers check, or money order.
- (d) No candidate shall have his or her name placed on any official ballot unless the candidate has been both certified by the Board of Elections and has paid the proper filing fee to the Tribal Finance Office pursuant to Subsections (a), (b), and (c) of this Section.
- (e) Candidates who are denied certification shall have the right to request a hearing before the Board of Elections. Such hearings may be obtained only by filing a written request with the Chairman of the Board of Elections within five business days of the adverse ruling by the Board of Elections. Such hearing requests shall be hand delivered to the office of the Board of Elections during normal business hours. Such hearing request shall be considered served on the date of the hand delivered. The burden for appearance at the scheduled date and time shall be on the denied candidate. At such hearing, any person denied certification shall have the right to present written evidence or oral testimony to establish their qualification as a candidate for that particular office. The Board shall issue a written decision to the candidate stating whether the candidate satisfies the requirements for such office within two business days after the conclusion of the hearing. If the

candidate is deemed not to meet the qualification for the office, the reasons for denial shall be stated by the Board in its written decision. The written decision from the Board of Elections shall be sent to the candidate by certified mail with return receipt requested. Proof of service of process is a return receipt from the United States Postal Service or a return of service from the Cherokee Police Department.

- (f) All candidates shall sign an agreement under oath to use the voter list provided to the candidate pursuant to Section 161-11.3 of this Chapter only for truthful communications with eligible voters in connection with the election. The candidate must clearly identify himself/herself in all such communications. Any claims or complaints shall be directed to the Board of Elections for investigation. The voter list shall be furnished to each candidate in printed form, and if requested by the candidate, in electronic form set by field identifiers in a manner to permit the candidate to utilize the list electronically for the intended purpose of communication with the registered voters. The Election Board shall take all steps necessary to assure that the electronic list is made accessible for the candidate to properly utilize.
- (g) If at any time prior to the election, should a candidate no longer meet the eligibility requirements of Section 161-3 of this Chapter, the Board of Elections may decertify that person as a candidate. A decertified candidate may request a hearing under Section 161-4(e).

(Ord. No. 556, 12-28-2006; Ord. No. 409, 8-25-2008; Ord. No. 216, 9-30-2010; Ord. No. 85, 9-21-2012)

Sec. 161-4.1. - Write-in candidates.

- (a) All persons wishing to run as write-in candidates in the ~~primarygeneral~~ election must declare their candidacy by filing with the Board of Elections ~~between April 1st and April 15th at least 45 days of a prior to the primary-general~~ election. All candidates must complete a filing form to establish that they meet the qualifications of the office for which they file.
- (b) Write in candidates shall pay a filing fee in the amount as required by the registered candidate as specified in Subsection 161-4(c) of this Chapter.
- (c) The Board of Elections shall review all write-in forms and shall certify each applicant as either eligible or ineligible and notify the applicant of its decision ~~by April 30th within fifteen business days of the date of filing.~~
- (d) Write-in votes will not be counted unless the first and last name of the candidate is written on the ballot. The name of the candidate for purposes of write-in voting is the name filed by the candidate with the Board of Elections. The Board of Elections shall make public the names of write-in candidates certified as eligible for each Tribal office no later than seven days before the ~~primarygeneral~~ election.
- (e) Unless a person has filed with and been certified as a write-in candidate by the Board of Elections pursuant to Subsection (a) thru (c) of this Section, no write-in votes for that person shall be counted or reported by the Board of Elections.
- (f) No write-in voting is permitted in the ~~generalprimary~~ election, and no write-in votes cast in the ~~generalprimary~~ election shall be counted or reported.
- (g) No stickers preprinted with a candidate's name are permitted ~~for write-in voting.~~

(Ord. No. 556, 12-28-2006; Ord. No. 409, 8-25-2008; Ord. No. 216, 9-30-2010; Ord. No. 85, 9-21-2012)

Sec. 161-5. - Primary elections.

- (a) The two candidates receiving the most votes for the office of Principal Chief and Vice-Chief and the four candidates receiving the most votes for the two Tribal Council seats in each township shall be certified by the Board of Elections, and their names shall be placed on the ballot for the general election.
- (b) The two candidates receiving the most votes for the office of School Board in each district shall be certified by the Board of Elections, and their names shall be placed on the ballot for the general election.
- (c) If two or fewer candidates file and are certified eligible under Section 161-4 for Principal Chief, Vice-Chief, or a district School Board position, then no primary election shall be held for that office, and those candidates shall have their names placed on the ballot for the general election.
- (d) If four or fewer candidates file and are certified eligible under Section 161-4 for Tribal Council in a particular township, then no primary election for Tribal Council shall be held in that township, and those candidates shall have their names placed on the ballot for the general election.
- ~~(e) No write-in voting is permitted in the primary election, and no write-in votes cast in a primary election shall be counted or reported.~~

(Ord. No. 556, 12-28-2006; Ord. No. 409, 8-25-2008; Ord. No. 216, 9-30-2010)

Sec. 161-6. - Recounts.

- (a) If the vote count in any Tribal election results in a tie, the Board of Elections shall conduct a recount of all ballots cast for that particular office or seat. Such recount shall be conducted by the Board of Elections within two business days after the closing of the polls for that election. The recount shall be performed by the members of the Board of Elections.
- (b) If any unsuccessful candidate in any Tribal election is defeated by no more than two percent of the total number of votes cast for that particular office or seat, such candidate may request a recount by filing a written request with the Board of Elections within two business days after the closing of the polls for that election. The recount shall be conducted by the Board of Elections within three business days of filing of the request by the unsuccessful candidate.
- (c) At the conclusion of any such recount, the Board of Elections shall announce the tally and results of the recount which shall become the official tally for that office pending official certification of the results of the election to the Tribal Council pursuant to Section 161-16.1 of this Chapter.
- (d) Any candidate on a ballot subject to a recount by the Board of Elections may personally observe the recount which will be televised and in a controlled environment to observe the recount. Should the candidate choose to not attend, they may designate one representative to observe the recount. Such representation must be designated in writing, with such written appointment delivered to the Board of Elections prior to the commencement of the recount. Such observers shall not participate in or interfere with the recount activities of the Board of Elections and may be ejected by the chairman if they interfere with or disrupt the recount process.

(Ord. No. 556, 12-28-2006; Ord. No. 409, 8-25-2008; Ord. No. 216, 9-30-2010)

Sec. 161-7. - Run-off elections.

- (a) If after a recount of ballots by the Board of Elections two or more candidates running for seats on the School Board, Tribal Council, Vice Chief, or Principal Chief receives the same number of votes in the primary election for the last available position on the general election ballot, the Board shall conduct a run-off election between such candidates. The candidate receiving the greatest number of votes in that election shall be deemed eligible to stand for the general election.

- (b) If in the Tribal Council election, two candidates receive the same number of votes and the votes represent the largest vote total by any individual candidate for that township, the two candidates shall be deemed elected to the seats on the Council for that township.
- (c) If after a recount of ballots by the Board of Elections two or more candidates running for the last available seat on the Tribal Council receive the same number of votes in the general election and the votes represent the second largest vote total by any individual candidate for that township, the Board shall conduct a run-off election between such candidates. The candidate receiving the greatest number of votes in the run-off election shall be deemed elected to the second seat on the Tribal Council for that township.
- (d) If after a recount of ballots by the Board of Elections two or more candidates running for a seat on the School Board, or for the seat of Vice Chief, or Principal Chief receive the same number of votes in the general election and the votes represent the largest vote total by any individual candidate for that race, the Board shall conduct a run-off election between such candidates. The candidate receiving the greatest number of votes in the run-off election shall be deemed elected to a seat on the School Board or to the seat of Vice Chief or Principal Chief as the case may be,
- (e) Should the Board of Elections determine that a recount of ballots would not determine the accurate vote count; the Board of Elections shall issue a run-off election between all candidates that the Board deems as necessary to resolve any issues concerning the accuracy of the vote count. All decisions made by the Board of Elections in regards to run-off elections shall be final.
- (f) A run-off election shall be held within 15 days of the decision of the Board of Elections to hold such a run-off.
- (g) The Board of Elections shall not provide absentee ballots for run-off or special elections.
(Ord. No. 556, 12-28-2006; Ord. No. 409, 8-25-2008; Ord. No. 216, 9-30-2010; Ord. No. 85, 9-21-2012)

Sec. 161-8. - Special elections.

- (a) In case of a vacancy for the office of Principal Chief, the Vice Chief shall become the Principal Chief and shall serve the balance of the elected term of office until his or her successor is elected.
- (b) If the position of Vice Chief is vacated, the Council may elect a successor from Tribal Council Representatives, who shall serve until his or her successor is elected the balance of the elected term of office.
- (c) If the office of the Principal Chief and Vice Chief become vacant simultaneously, the Chairman of the Council shall become Principal Chief and shall serve the balance of the elected term of office and the Council shall elect a Vice Chief who shall serve the balance of the elected term. If the Chairman of the Tribal Council does not meet the qualifications for the office of Principal Chief, the vacancy shall be filled as follows: The office of Vice Chief shall be filled through election by Tribal Council, and the Vice Chief shall serve in place of the Principal Chief until a special election can be held. The Board of Elections shall give public notice of a period of 15 days during which qualified persons may file for office of Principal Chief. A special election shall be held 30 days after the last filing date. The individual receiving a majority of votes cast in such special election shall be deemed elected to the office of Principal Chief. If no candidate receives a majority in such special election, the Board shall conduct a run-off election between the two candidates receiving the most votes in the special election, with the run-off election to be held two weeks after the special election. The candidate receiving the most votes in the run off election shall be deemed elected to the seat of Principal Chief. Once the Principal Chief is elected and seated, the acting Principal Chief shall step down and resume his or her elected position as Vice Chief.

- (d) In the event of a vacancy on the Tribal Council with more than six months remaining in the elected term, the Board of Elections shall schedule a special election within 45 days of such vacancy. The Board of Elections shall give public notice of a period of 15 days during which qualified persons may file for the vacant Tribal Council seat. The candidate receiving the most votes in the special election shall be deemed elected to the vacant Tribal Council seat. If there are less than 90 days remaining in the term of the vacated member, the seat shall remain vacant until the next regular election.
- (e) In the event of a vacancy on the School Board with more than six months remaining in the elected term, the Board of Elections shall schedule a special election within 45 days of such vacancy. The Board of Elections shall give public notice of a period of 15 days during which qualified persons may file for the vacant School Board seat. The candidate receiving the most votes in the special election shall be deemed elected to the vacant School Board seat. If there are less than six months remaining in the term of the vacated member, the seat shall remain vacant until the next regular election.
- (f) When filling vacated elected offices, candidates must meet all applicable qualifications for that office pursuant to Section 161-3 of this Chapter.
- (g) The Board of elections shall not provide absentee ballots for run-off or special elections.
(Ord. No. 556, 12-28-2006; Ord. No. 409, 8-25-2008; Ord. No. 216, 9-30-2010; Ord. No. 85, 9-21-2012)

Sec. 161-9. - Referendums/initiatives.

- (a) *Purpose.* A referendum is the people's ability to refer newly enacted law by petition, from the legislation to the ballot for final approval. The following rules shall apply,
- (b) *Definitions.*

Initiative shall mean the right and procedure by which citizens can propose a law by petition and ensure its submission to the electorate.

Referendum shall mean the submission of a proposed public measure or actual statute to a direct actual vote.

(c) *Process.*

- (1) A referendum/initiative issue shall only be established by resolution of the Tribal Council, duly ratified by the Principal Chief.
 - a. A referendum initiated by Tribal Council does not need a petition.
- (2) A referendum/initiative shall require a petition of:
 - a. 25 percent of the registered voters to petition the Tribal Council for a resolution for a referendum/initiative election on a proposed ordinance or action by the Tribal Council or Principal Chief.
 - b. 33 percent of registered voters to petition the Tribal Council for resolution for a referendum/initiative election on a proposed change to the Charter or Governing Document.

The petition requirement shall not apply to any resolution or issue properly before Council, which Council, on its own initiative presents to the Cherokee people for referendum vote.

- (3) 51 percent of registered voters must vote in a referendum/initiative election before the proposed amendment to the Charter or Governing Document shall be enacted or repealed.
- (4) If a majority of the voters voting in a referendum/initiative election are in favor of the enactment or repeal of an ordinance or resolution, provided that at least 30 percent of registered voters have voted in such an election, the ordinance or resolution shall be enacted or repealed. No action undertaken by this procedure shall be overturned by Tribal Council.
 - a. A petition shall be on a standardized form provided by the Board of Elections and shall include the designation of three signatories as the Petitioner's Committee; signature lines for the names, addresses and enrollment numbers of supporters of the petition; and a full explanation of the proposed action sought by referendum including the full text of the proposed action. The Petitioner's Committee shall be responsible for the content of the proposed legislation. This proposed legislation shall appear on all signature sheets.
 - b. The petition shall be submitted to the Board of Elections in order that the information listed on the petition is verified. Only registered voters shall be counted in this process.
- (5) Each resolution for referendum shall be in the full text form of the proposed action. Before the issue is presented to the Cherokee people for a vote, the text of the question shall be reviewed by the Office of the Attorney General and finally approved by the Tribal Council and the Principal Chief to ensure that the question for vote adequately and clearly informs the voter of the question to be answered, is limited to one question at a time, and encompasses only one issue per question.
- (6) All registered voters shall be eligible to vote on a referendum issue.
- (7) Referendums for any purpose of this Section shall be conducted by the following procedures:
 - a. The Board of Elections shall schedule a referendum election for any purpose other than that of modifying the Charter and Governing Document to be held within 90 days of ratification of the resolution.
 - b. Within 10 business days of ratification of the resolution the Board of Elections shall give public notice for the upcoming referendum by advertising in the Cherokee One Feather, Graham Star, and Cherokee Scout and by mailing all eligible voters. The public notice shall contain an election schedule which shall notify all voters of the date of the election, the question to be voted on and the date in which the voter registration rolls will close.
 - c. The Board of Elections shall close the voter registration books 30 days prior to the referendum election.
 - d. The Board of Elections shall appoint all election officials 30 days prior to the election. The Board shall conduct an orientation for precinct officials prior to the election.
 - e. The Board of Elections shall issue ballots for referendum in accordance with the absentee ballot application process pursuant to the procedures set out in this Section.
 - f. Persons desiring to vote by absentee ballot may begin applying for such ballot immediately after receiving notice of the referendum election and all applications must be submitted by at least 15 days prior to the election.
 - g. All absentee ballots for referendum must meet the same criteria for any other election and must be returned to and received by the Board of Elections ten days prior to the referendum election.
- (8) The outcome of the referendum vote shall be certified by the Board of Elections and shall be a binding action or law duly passed and ratified by the Principal Chief.

(9) Any protest regarding an election irregularity shall be conducted according to the procedures set out in the current law. (Tribal Election Law Section 161-16).

(10) An issue that has been brought before the eligible voters and voted upon by referendum/initiative may not be voted upon again until a period of ~~two~~**five** years has passed.

(Ord. No. 409, 8-25-2008; Ord. No. 216, 9-30-2010; Ord. No. 85, 9-21-2012)

ARTICLE II. - VOTERS

Sec. 161-10. - Qualifications.

To be eligible to vote in any Cherokee election, a person must:

- (1) Be an enrolled member of the Eastern Band of Cherokee Indians; and
- (2) Be at least 18 years of age on the date of the applicable election; and
- (3) Be registered with the Cherokee Board of Elections as set forth in Section 161-11 prior to the applicable election.

(Ord. No. 556, 12-28-2006; Ord. No. 409, 8-25-2008; Ord. No. 216, 9-30-2010)

Sec. 161-11. - Registration.

- (a) Voter registration shall be conducted in such offices as may be designated by the Board of Elections. The office shall be open for registration on all regular business days. All registration shall only be made in person or sent by United States Mail. All voter registration cards received by mail must be notarized and must include a copy of the voter's government issued photo ID card.
- (b) Voters shall register in the township in which they currently reside. Tribal members not living on Cherokee Trust Land shall register in the township in which they last resided. Voters who have never resided on Cherokee Trust Lands shall register ~~in~~ the township in which his/her enrolled mother last resided. If the voter's mother was not an enrolled member or never held a residence on Cherokee Trust Land, then the voter shall register where his/her enrolled father last resided.

In the case that neither the voter's mother or father held a residence on Cherokee Trust Land, then the voter shall register in the township where their nearest matrilineal ancestor last resided. If the voter's mother's side of the family is not of Cherokee descent then the first matrilineal line on the father's side shall be used to determine township.

For the purpose of this section the terms "mother" and "father" shall mean biological mother and biological father, unless a legal adoption has occurred, in which case "mother" and "father" shall mean adoptive mother and adoptive father. Voters moving from one township to another must ~~r~~eregister in the new township.

- (c) The Board of Elections may conduct special registrations within any precinct if it is deemed advisable. All such special registration shall be published at least one week in advance in the Cherokee One Feather, Cherokee Scout, and Graham Star.
- (d) The Board of Elections shall close the voter registration books at the close of business on the Friday 30-calendar days prior to the primary election. Tribal members who are not registered to vote on or prior to the closing of the registration books shall not be eligible to vote in the primary election. Those registered voters who change their residence during this period are not required to update their registrations until the registration rolls reopen. The residency requirement of

Subsection 161-11.1(a) of this Chapter shall be waived during this period to resolve any conflicts within this Chapter.

- (e) The Board of Elections shall open the voter registration books on the Monday following ~~the certification of the primary election and the books shall remain open until the close of business on the Friday prior to the general election. to Tribal Council until the last business day in July to allow voters to register and/or re-register for the general election.~~ During the period when the registration rolls are closed those registered voters who change their residence are not required to update their registration until the registration rolls reopen on the first business day following the certification of the general election. This residency requirement of Subsection 161-11.1(a) of this Chapter shall be waived during this period to resolve any conflicts within this Chapter.
- (f) The Board of Elections shall reopen the voter registration books on the next business day following the certification of the general election to Tribal Council.

(Ord. No. 556, 12-28-2006; Ord. No. 409, 8-25-2008; Ord. No. 216, 9-30-2010; Ord. No. 85, 9-21-2012)

Sec. 161-11.1. - Changes in voter registration.

- ~~(a) (e)~~ — Once a person is registered by the Board of Elections, they shall remain registered until such time as they move to a different township, or an investigation made by the Board of Elections has found an improper township registration, at which time they must register in the new township pursuant to Subsection 161-11(b) of this Section.
- (b) Registered voters may terminate their registration by presenting a notarized request to the Board of Elections. This action shall be final upon notification of termination by the Board of Elections.

~~(c)(b)~~ — Persons living in long term care facilities and those who are displaced due to emergency situations may petition the Board of Elections for a waiver for the change of township requirement in Subsection (a) of this Section. Waivers may be issued upon proof of displacement.

~~(d)(e)~~ The Board of Elections shall purge its lists of voters annually for deceased voters in each community.

(Ord. No. 556, 12-28-2006; Ord. No. 409, 8-25-2008; Ord. No. 216, 9-30-2010)

Sec. 161-11.2. - Challenges to voter registration.

- (a) When the Board of Elections has or receives evidence demonstrating to the Board's satisfaction that a voter is not registered in the correct township, the Board shall notify the voter in writing and give the voter five business days to submit community change. All enrolled members of the Tribe shall have the right to enter a challenge to any person's registration in a particular township. Such challenge may be made and the Board shall weigh the evidence provided accordingly and issue the proper investigation required. See Section 161-16 for proof of residency. The Board shall determine the voter's correct voting township based on the evidence. The Board has the authority to move the voter's registration to the correct township and notify each voter in writing of any changes. No changes shall be made to a voter's township when the registration rolls are closed.
- (b) The Board of Elections is authorized to utilize all resources available to properly document a voter's residence for registration purposes. The burden is placed upon the voter to dispute any changes made by the Board of Elections within the registration books. Any affected voter may request a hearing before the Board of Elections within five business days from receipt of a change of township notice. The Board shall afford any voter a hearing within five business days from receipt of hearing request. The affected voter has the right to present any witnesses or

documentation to the Board of Elections during the hearing. The Board will issue its decision within five business days from the date of the hearing to either rescind or uphold its decision.

(Ord. No. 556, 12-28-2006; Ord. No. 409, 8-25-2008; Ord. No. 216, 9-30-2010; Ord. No. 85, 9-21-2012)

Sec. 161-11.3. - Notice of voter registration.

- (a) The Board of Elections shall maintain a list of all registered voters in the office of the Board of Elections. The Board of Elections shall mail registered voters notice of any new voter registration laws in order to give voters the opportunity to make corrections to their voter registration as may be necessary.
- (b) The Board of Elections shall prepare and provide to each candidate a printed and electronic listing of each registered voter within the candidate's precinct. This list shall contain the name and current mailing address for each voter and shall be accessible by the candidate to be utilized electronically for its intended purpose. The voter list shall be furnished to each candidate in printed form, and if requested by the candidate, in electronic form set by field identifiers in a manner to permit the candidate to utilize the list electronically for the intended purpose of communication with the registered voters. All mailing addresses will be provided by the EBCI Enrollment Department. The Board of Elections shall cross-reference registered voters between townships prior to each Tribal election. Except as provided in this subsection, the Board shall not be required to give any other lists or other database information to candidates. The candidates are authorized to use such lists only for lawful communications with registered voters related to the election campaign pursuant to Section 161-4(f) of this Chapter. Only the most recent lists as dated and issued by the EBCI Board of Elections to the candidate shall be deemed valid. Previously dated lists shall not be used for campaigning or comparative purposes.
- (c) The Board of Elections shall not release any information regarding an individual's personal voting record participation to candidates or the general public. Voter registration cards are property of and shall only be issued by the EBCI Board of Elections.

(Ord. No. 556, 12-28-2006; Ord. No. 409, 8-25-2008; Ord. No. 216, 9-30-2010; Ord. No. 85, 9-21-2012)

Sec. 161-12. - Polling places.

- (a) All designated polling sites will be determined by the Board of Elections; and
- (b) All polling places shall be located on trust land.
- (c) No campaign signs of any kind shall be allowed within 100 yards of designated polling places for a period of one week prior to the Election Date.

(Ord. No. 556, 12-28-2006; Ord. No. 409, 8-25-2008; Ord. No. 216, 9-30-2010)

Sec. 161-13. - Election officials.

- (a) *Qualifications.* In order to serve as an election official, individuals must:
 - (1) Be enrolled members of the Eastern Band of Cherokee Indians; and
 - (2) Be at least 18 years of age by the date of the election; and
 - (3) Be able to read and write the English language; and
 - (4) Be a registered voter with the Tribal Election Board; and

- (5) Not be a candidate and work any poll, nor immediately related to any candidate within the community they serve. Election officials may not support any candidate while working their polling place position.
- (6) Attend and complete the mandatory orientation training seminar provided by the Board of Elections prior to each election.

(b) *Election judges.*

- (1) Two election judges shall be appointed by the Board of Elections for each precinct no later than 30 days prior to all elections, one of whom shall be designated by the Board of Elections as Chief Judge.
- (2) The Chief Judge shall be responsible for the overall conduct of the election at the precinct level. The Chief Judge shall be responsible for obtaining the ballot box, tally sheets, and the registration books from the Board of Elections on the day of orientation and for returning them to the Board at the close of the election.

The Chief Judge shall supervise the election process by determining the eligibility of individual voters, by observing the marking of ballots for those individuals seeking assistance in marking of their ballot, and by ensuring that the voting process is conducted in accordance with the law.

- (3) After the polls are closed, the election judges shall be responsible for reconciling the ballot totals with the ballot tabulator receipts in their respective precincts. They shall certify the count by signing the tally sheets. They shall then return the ballot box, all unused ballots, tally sheets, and registration book to the Board of Elections. Each judge shall then sign a sworn statement confirming the results of the election in their precinct.

(c) *Election Clerks.*

- (1) One Election Clerk shall be appointed by the Board of Elections for each precinct no later than 30 days prior to all elections.
- (2) The Clerk shall assist the judges in recording the name of each voter casting a ballot. The Clerk shall assist individual voters who seek assistance in marking ballots. The Clerk shall assist judges in counting the votes after the polls are closed.

One additional Clerk shall be appointed to the Birdtown and Wolfetown precincts by the Board of Elections, due to the higher numbers of registered voters.

(d) *Door Marshals.*

- (1) One Door Marshal shall be appointed by the Board of Elections for each precinct no later than 30 days prior to all elections.
- (2) The Door Marshal shall ensure that there is an orderly flow of voters in and out of the polling place and control the entrance of voters so that the election process shall not be compromised. The Door Marshal shall ensure that no candidate, their immediate family, or their workers are within 100 yards of the polling place except to cast their own ballots. The Door Marshal shall ensure that there is no loitering, electioneering, intimidation of voters or use of alcoholic beverages in and around the polling place.

(e) *Alternates.*

- (1) One alternate shall be appointed by the Board of Elections for each precinct no later than 30 days prior to all elections.

(2) The alternate shall be empowered to perform all the duties enumerated above.

(f) *Certification.*

(1) All election officials shall be appointed and certified by the Board of Elections as being eligible to serve in their respective capacities, prior to the election.

(2) All election officials shall before entering on their duties of office take the following oath before a member of the Board of Election: "I [name], having been duly appointed to serve as [title] for the [community] Township in the [year] [type of election] Election, do solemnly swear (or affirm) that I will faithfully perform the duties of that office to the best of my abilities and that I shall serve in a fair and impartial manner without fear or favor to anyone." All oaths shall be signed and dated by the respective election officials; such signed oaths shall also include the printed names of the election officials.

(3) In the event of a vacancy in any of the Election Official appointments prior to an election, the Board of Elections shall have authority to appoint and certify a replacement.

(Ord. No. 556, 12-28-2006; Ord. No. 409, 8-25-2008; Ord. No. 216, 9-30-2010; Ord. No. 85, 9-21-2012)

Sec. 161-14. - Voting procedures.

(a) When a Tribal member appears at the polling place to vote, the enrolled member shall present an Election Judge with a government issued photo I.D. to verify identification, an Election Judge shall then determine if the name appears on the official list of registered voters furnished by the Board of Elections. If there is any question regarding a voter's eligibility, the chief judge shall call the Board of Elections to verify. If after confirmation with the Board of Elections, the voter is determined not to be eligible or registered, he/she shall not be allowed to vote. If the name appears on the list, the clerk shall then insure that the voter's name does not also appear on the list of absentee voters, and record the name in a record book maintained for that purpose. A judge shall then give the voter an unmarked ballot.

(b) The voter shall mark the ballot in a designated private area within the polling place. The voter shall then place the marked ballot into the ballot box and leave the polling place.

(c) If a voter seeks assistance in marking the ballot, the clerk or other assisting party shall mark the ballot as requested by the voter, and shall have two election officials witness the marking. An official Affidavit of Assistance form must be signed by the voter prior to the clerk or other assisting party marking the ballot and noted on that form the signatures of all election staff who in the administration or witnessing of the casting of the ballot. The two election officials shall witness the marking of the ballot and then immediately deposit the ballot in the ballot box.

(d) The Board of Elections shall not provide absentee ballots for run-off or special elections.

(e) If any elderly, handicapped, or infirm person is unable to enter the polling place, the person shall be permitted to vote in a motorized vehicle at the polling place. Such elderly, handicapped, or infirm voters shall be permitted to vote by having any two of the four election officials personally deliver the ballot to such a voter. An official Affidavit of Assistance form must be signed by the voter prior to the voter marking the ballot, and be noted on that form the signatures of all election staff who assisted in the administration or witnessing of the casting of the ballot. The two election officials shall witness the marking of the ballot by the voter and then immediately return the ballot to the polling place and deposit the ballot in the ballot box.

(f) After the polls are opened, under no circumstances shall a ballot box be opened until the polls are closed. If manual ballots are used, key operated locks shall be installed on the ballot boxes with the keys under the sole control of the Board of Elections. The keys shall be delivered to the chief judge for the Board of Elections only at the closing of the polls. If electronic tabulators are used,

the Board of Elections shall use equivalent procedures consistent with the technical requirements of the ballot tabulators to ensure that no unauthorized ballots are inserted in the ballot box or counted in the election.

- (g) Any voting irregularities observed by the Election Officials must be reported by the Chief Judge to the Board of Elections when they occur, but no later than the time when the ballot boxes are returned to the Board of Elections. The Chief Judge must submit a report of the alleged irregularities in writing stating specifically and in detail what the alleged irregularity is immediately. Any alleged irregularities and the manner in which they were handled shall be communicated to each candidate that submits a Protest of Election Irregularity to the Board of Elections within the protest period.

(Ord. No. 556, 12-28-2006; Ord. No. 409, 8-25-2008; Ord. No. 216, 9-30-2010; Ord. No. 85, 9-21-2012)

Sec. 161-15. - Absentee voting.

- (a) The Board of Elections shall prepare and administer a separate ballot for absentee voting. The absentee ballot shall be identical to the regular ballot except that it shall be printed on paper of a different color.
- (b) Only enrolled members who are registered to vote and meet one of the following requirements may vote by mail or in person by absentee ballot:
 - (1) Tribal members serving on active military duty who are unable to return to Cherokee to cast their votes;
 - (2) Tribal members employed with the federal government assigned to duty other than the Cherokee Indian Reservation who are unable to return to Cherokee to cast their votes;
 - (3) Tribal members enrolled in institutions of higher education that are unable to return to Cherokee to cast their votes;
 - (4) Tribal members who are employees of the Tribe and are required to be away from Cherokee for training or for reasons required by their employment on the date of election who are unable to return to Cherokee to cast their votes;
 - (5) Tribal members who because of illness are in a hospital, nursing home, or other treatment facility and who because of their physical condition and course of treatment are unable to return to Cherokee to cast their votes; or
 - (6) Tribal members who physically reside on Cherokee trust lands but who will be absent from Cherokee on Election Day for business or personal reasons and are unable to return to Cherokee to cast their votes.
- (c) Person desiring to vote by absentee ballot must apply for such a ballot within the following time periods: Beginning on April 1 and ending on May 15 for the primary election and beginning on July 1 and ending on August 15 for the general election, for requests made by phone, electronic mail, or US mail. Requests may be made in person in the Board of Elections Office by 4:30 p.m. the Friday before said election. The Board of Elections may require appropriate documentation to establish compliance of Subsection 161-15(b) of this Section be submitted with the application.
- (d) Absentee ballots shall be given or mailed to the prospective voter by the Board of Elections beginning on May 1 for the Primary Election and on August 1 for the General Election, together with instructions and an official self-addressed return envelope. Absentee ballots must be witnessed, returned to and received by the Board of Elections on or before 4:30 p.m. on the Friday before the Primary Election, and on or before 4:30 p.m. on the Friday before the General Election. All absentee ballots shall be counted by the Board of Elections on Election Day.

- (e) The Board of Elections shall prepare a list of all absentee ballots returned to the Board of Elections and shall make such a list available to the Chief Election Judge in each polling place on the day of election. Election officials shall not permit any person to cast a ballot whose name appears on the absentee voters list.
- (f) The Board of Elections shall print on the face of each application for absentee ballot the following legend with the blank space in the legend to be completed:

"This application is issued for the absentee ballots to be voted in the _____ (General Election, Primary Election, etc.) to be held on the _____ day of _____, 20_____."

- (g) An application for absentee ballot shall be issued only by mail or in person to the voter. The voter shall provide a copy of his/her enrollment card and a copy of his/her government issued photo ID card with the application for absentee ballot. The application shall require the voter to certify as follows:

"I, (Print Full Name), do certify that I am a voter in the _____ Township of the Eastern Band of Cherokee Indians, duly registered in accordance with Cherokee Code. I understand it is a criminal offense to falsely sign this certificate.

Signature of Voter

Date: _____

Witness: _____

Address: _____

Witness: _____

Address: _____

- (h) No later than May 1 for a primary election and August 1 for a general election, the Board of Elections shall print a sufficient number of envelopes in which persons casting absentee ballots may transmit their marked ballots to the Board of Elections. Each return envelope shall be printed in accordance with the following instructions:
 - (1) On one side shall be printed an identified number of the voter and the following statement which shall be certified by one member of the Board of Elections: "Certification of Election Board Member: The undersigned Election Board Member certifies that _____ is a registered and qualified voter of _____ Township and has made proper request to vote under the laws of the Eastern Band of Cherokee Indians.

Chairman/Member

Date: _____

- (2) On the other side shall be printed the return address of the Board of Elections and the following certification:

"Certification of Absentee Voter: I, (Print Full Name), do certify that I am registered voter in _____ Township of the Eastern Band of Cherokee Indians. I further certify that I requested an absentee ballot and that I marked the ballot enclosed herein, or that it was marked for me in my presence and according to my instructions. I understand it is a criminal offense to falsely sign this certificate.

Signature of Voter: _____

Date: _____

Witness: _____

Address: _____

Witness: _____

Address: _____

- (i) On or before May 1 for a primary election and August 1 for a general election, the Board of Elections shall prepare and print a sufficient number of instruction sheets on how voters are to prepare absentee ballots and return them to the Board of Elections. The instruction sheet shall state the date on which ballots must be received by the Board of Elections to be counted.
- (j) The Board of Elections shall use the following procedures to maintain the Absentee Logs:
- (1) Record the absentee applications and ballots issued.
 - a. Name of the voter requesting an absentee ballot.
 - b. Number assigned to voters ballot when issued.
 - c. The township in which applicant is registered.
 - d. Address to which the ballot is mailed.
 - e. The date the request for ballot was received.
 - (2) When the Board of Elections receives and approves an application for absentee ballots, it shall promptly issue and transmit the ballot to the voter only, not to a relative, in accordance with the following instructions:
 - a. On a detachable tab, the Board of Elections shall have printed the words "Absentee Ballot No. _____" and insert in the blank space the number assigned to the absentee voter. The Board shall not write, type, or print any other matter upon the ballot.
 - b. The Board shall detach the numbered tab, fold and place the ballot in a return envelope and write or type in the appropriate blanks thereon the absentee voters name, his/her ballot number and the designation of the township in which the voter is registered. The Board of Elections shall leave the return envelope holding the ballots unsealed.
 - c. The Board of Elections shall then place the unsealed return envelope holding the ballot, together with printed instructions for voting and returning the ballot, in an enveloped addressed to the voter at the address stated in his/her request, seal the envelope, and mail

it at the expense of the Board of Elections. Alternatively, a voter may personally pick up the ballot at the Board of Elections office.

- (3) If the voter does not meet the criteria for absentee voting, the Board of Elections will notify the voter in writing of the reason for denial. The decision of the Board of Elections to deny an absentee ballot application shall be final.

(Ord. No. 556, 12-28-2006; Ord. No. 409, 8-25-2008; Ord. No. 216, 9-30-2010; Ord. No. 85, 9-21-2012)

Sec.161-15.1 Early Voting

(a) Any eligible registered voter may vote under the provisions of this subsection.

(b) Early voting opens the second Monday of May and ends the fourth Monday of May before the primary election and the second Monday of August and ends the fourth Monday of August before the general election and closes at 4:30 pm on regular business days except for the last Saturday prior to the closing of early voting; the last Saturday hours shall be 8:00 am until 4:30 pm. The location for early voting shall be determined by the Board of Elections and shall be located on tribal trust lands.

(c) All eligible early voters shall follow the voting procedures set forth in Section 161-14.

(1) The early voting ballots shall be marked and distinctly colored from the absentee and regular voting ballots. On a detachable stub, the Board of Elections shall have printed the words "Early ballot No. _____" and insert in the space the number assigned to the early voter. The Board shall not write, type, or print any other matter upon the stub. The Board shall detach the numbered ballot tab.

(2) After voting in a private area, the voter shall place the ballot in a sealed envelope provided and witnessed by a Board Member or Election Officials and placed in a locked ballot box.

(d) The Board of Elections shall prepare a list of all early ballots cast and shall make such a list available to the Chief Election Judge in each polling place on the day of the election. Election Officials shall not permit any person to cast a ballot whose name appears on the early voter's list.

(e) Election irregularities and protests shall be conducted in accordance with the procedures as set forth in Section 161-16 of this chapter.

Sec. 161-16. - Election irregularities and protests.

- (a) All protests must be submitted to the Board of Elections in writing and on forms provided by the Election Board. All hearings for election irregularities and protests shall be set according to this Section.
- (b) A protest of a voter's township registration may be made by any enrolled member or candidate who is a registered voter, as specified in Section 161-11.1 through 161-11.3. No protests of a voter's township registration shall be accepted or acted upon by the Board of Elections between April 14 and the first business day following the certification of the general election results.
- (c) A protest of irregularities in the conduct of an election must be submitted to the Board of Elections no later than five business days after the close of the polls and a hearing shall be set within five business days after the receipt of the written protest. The parties to the protest shall be allowed adequate time to prepare their case and be allowed to call witnesses and subpoena documents, not to exceed ten business days. It is imperative to proceed in a timely manner, therefore the normal

rules of civil procedure are not applicable. However, the Board of Elections shall give the parties every consideration and opportunity to provide a solid case and may extend any deadlines or hearing to assure that it has all the facts in order to make a valid final decision. All persons that the protest may affect shall be notified of the scheduled hearing by the Election Board.

- (d) Any person filing a protest for election irregularities under Subsection 161-16(c) must establish during a hearing in front of the Board of Elections that the alleged irregularities unfairly and improperly or illegally affected the actual outcome of the election.
- (e) All persons shall have the right to have legal counsel represent them at the hearing.
- (f) After all parties have had an opportunity to be heard and present evidence the Board of Elections shall issue a final written decision stating their findings and decision. The decision shall be issued within five business days after the conclusion of the hearing. The written decision shall be sent to all affected person(s) by means of certified mail with return receipt requested, or shall be hand delivered by an officer of the Cherokee Police Department. Proof of service of process is a return receipt from the United States Postal Service or a return of service from the Cherokee Police Department.
- (g) The Board has the power to:
 - (1) Find that the protest did not meet the requirements set forth in this Chapter and dismiss the protest; or
 - (2) Find that the protest did meet the requirements set forth in this Chapter and issue the appropriate relief.
 - (3) If the Board of Elections finds that there was an election irregularity, then the Board of Elections is authorized to issue relief in the form of ordering a new election or a run-off election between two or more candidates affected by the election irregularity. If it is shown by the evidence presented that a crime may have been committed during the course of the election, the Board of Elections may present evidence to the Tribal Prosecutors Office for possible criminal charges.
 - (4) The Board of Elections shall use the same procedure set out in Section 161-7 of this Chapter, if a new or run-off election is warranted.
- (h) No person shall be entitled to receive monetary damages or recover their legal or personal expenses from the Board of Elections or the Tribe.

(Ord. No. 556, 12-28-2006; Ord. No. 409, 8-25-2008; Ord. No. 216, 9-30-2010; Ord. No. 85, 9-21-2012)

Sec. 161-16.1. - Certification of election results.

- (a) At the meeting of Tribal Council on the first Monday of October following a general election, or after the first meeting of the Tribal Council following a special or primary election, the Board of Elections shall certify the election to the Tribal Council.
- (b) If a formal election protest is filed with and not yet resolved by the Board of Elections pursuant to Section 161-16, the Board of Elections shall only certify the results of the seats or offices not in dispute with the Council by Annual Council.

(Ord. No. 556, 12-28-2006; Ord. No. 409, 8-25-2008; Ord. No. 216, 9-30-2010; Ord. No. 85, 9-21-2012)

ARTICLE III. - BOARD OF ELECTIONS

Sec. 161-17. - Board established.

- (a) The Board of Elections shall be composed of six members, one from each township. Each member of the Board shall be appointed by the Tribal Council effective September 1 in non-election years, with the term of each member to run for four years from that date. The terms shall be staggered with one representative appointed from Painttown, Wolfetown/Big Y, Snowbird/Cherokee County in 2012 and each four years thereafter; and one representative appointed from Big Cove, Birdtown and Yellowhill in 2014 and each four years thereafter.
- (b) In order to serve as a member of the Board of Elections, a candidate must:
 - (1) Be an enrolled member of the Eastern Band of Cherokee Indians; and
 - (2) Be at least 18 years of age on the date of appointment; and
 - (3) Reside on Cherokee Trust Lands for a least one year prior to the date of appointment and continue to reside on the Cherokee Trust Land for the duration of their term; and
 - (4) Have received a high school diploma or equivalent prior to the date of appointment.
- (c) No Election Board member shall be a candidate for any Tribal office or actively support any candidate for Tribal office during the term for which the member is appointed to the Board.
(Ord. No. 556, 12-28-2006; Ord. No. 409, 8-25-2008; Ord. No. 216, 9-30-2010; Ord. No. 85, 9-21-2012)

Sec. 161-18. - Vacancies.

A vacancy on the Board shall be filled by appointment of a replacement by the Tribal Council at the next regular Council session after the vacancy occurs. Such appointee shall serve the remaining term of the Board member being replaced.

(Ord. No. 556, 12-28-2006; Ord. No. 409, 8-25-2008; Ord. No. 216, 9-30-2010)

Sec. 161-19. - Duties of the board.

- (a) The Board shall have the power to make final decision on candidate eligibility, proper registrations, absentee eligibility, and protest decisions. The Board, in carrying out its decision, shall have the authority to subpoena documents and witnesses and shall have quasi-judicial powers to make the final rulings on all election protests properly before it.
- (b) The Board shall appoint all election officials necessary for the proper supervision of Tribal elections as set forth in Article II of this Chapter.
- (c) The Board shall provide to the election officials at each precinct a list of registered voters for their respective precincts.
- (d) The Board shall be responsible for the preparation of the official ballots to be used in each of the election precincts for all Tribal elections and shall furnish such ballots to the elections officials in each precinct.
- (e) The Board shall be responsible for certifying each applicant as eligible or ineligible, notifying each applicant of its decision, and holding appeal hearings as set forth in this Chapter. The Board shall make public the names of the candidates certified as eligible on the ballot for each Tribal office no later than May 10 of an election year for the primary election and August 10 of an election year for the general election,
- (f) The Board, together with the election officials for each precinct shall conduct all ballot counts after the closing of the polls. The Board shall thereafter make public unofficial reports of election returns. The Board shall certify elections as specified in Section 161-16.1.

- (g) The Board shall investigate irregularities and nonperformance of duty and violation of Tribal election rules and regulations by election officials or other persons. The Board may hold hearings in the course of such investigations in accordance with Section 161-16.
- (h) The Board shall have access to all ballot boxes and their contents, all voting machines and their contents, all registration records, and all necessary enrollment records in the Tribal Enrollment Office to carry out its duties under this Chapter. The Board of Elections is authorized to utilize all resources available to properly document a voter's residence for registration purposes.
- (i) The Board shall conduct an instructional meeting for precinct officials one day prior to each election.
- (j) The Board shall keep a tape or written record of all Board meetings.
- (k) The Board shall prepare and submit to the Tribal Council a budget request, which shall include all anticipated Tribal election expenses for the coming fiscal year. The request should include payment of all persons working with elections and all known registration costs.
- (l) The Board shall have the authority to fully implement and carry out all other duties set forth in this Chapter.

(Ord. No. 556, 12-28-2006; Ord. No. 409, 8-25-2008; Ord. No. 216, 9-30-2010; Ord. No. 85, 9-21-2012)

ARTICLE IV. - GENERAL PROVISIONS

Sec. 161-20. - Definitions.

The terms defined in this Section shall, for all purposes of this Chapter, have the meanings specified below:

An Election Year shall mean October 1 through September 30 of the year of a regular election.

Government Issued Identification (I.D.) shall mean a valid state issued driver's license, state issued photo I.D., military personnel I.D. card, a United States government issued passport, EBCI and EBCI entities' employee identification with photo, or EBCI Enrollment card with photo.

Immediately related shall mean a husband, wife, father, mother, brother, sister, daughter, son, aunt, uncle, grandfather, grandmother, niece, or nephew.

Precinct shall mean the polling place in each voting township, referring specifically to trust land,

Residence shall mean the act or fact of living in a particular township for some time or the place where one actually lives as evident by, but not limited to, a 911 address, government I.D. affidavits of neighbors, school records for children, employment records, and spouse's employment records. Residence is meant to be interpreted as the word is most commonly used.

Township shall mean the established communities recognized by the Tribal Council: Big Cove (including Tow String), BirdTown (including 3200 Acre Tract), PaintTown, YellowHill, WolfeTown (including Big Y), SnowBird, and Cherokee County trust lands combined.

Trust Land shall mean land held in trust by the United States government for the benefit of the Eastern Band of Cherokee Indians or its members.

(Ord. No. 556, 12-28-2006; Ord. No. 409, 8-25-2008; Ord. No. 216, 9-30-2010; Ord. No. 85, 9-21-2012)

Sec. 161-21. - Prosecution.

Any voting irregularities will be dealt with and prosecuted according to appropriate laws including, but not limited to, 25 C.F.R. § 11.426.

(Ord. No. 556, 12-28-2006; Ord. No. 409, 8-25-2008; Ord. No. 216, 9-30-2010)

Sec. 161-22. - Effective date; amendment; severability; weekends.

- (a) This Chapter and amendments to it shall be effective upon ratification by the Principal Chief.
- (b) The provisions of this Chapter that established election requirements or procedures shall not be amended during an election year as defined in Section 161-20.
- (c) If any provisions of this Chapter are found to be invalid because it is inconsistent with another law, then the inconsistent portion shall be reviewed and amended until all conflicts are resolved. All other provisions of this Chapter shall remain in full force and effect.
- (d) If the deadline for any action required under this Chapter falls on a weekend or holiday, then the deadline is extended until the next business day.

(Ord. No. 556, 12-28-2006; Ord. No. 409, 8-25-2008; Ord. No. 216, 9-30-2010)

Sec. 161-23. - Appellate review.

The standard of review for an appeal of a final decision by the Board of Elections shall be for error of law.

(Ord. No. 556, 12-28-2006; Ord. No. 409, 8-25-2008; Ord. No. 216, 9-30-2010)

ARTICLE V. - MISCELLANEOUS

Sec. 161-24. - Amendment to this Chapter.

No provisions of this Chapter 161, otherwise known as the Election Ordinance, may be amended during any Election year in which regularly scheduled general elections for Tribal Council or Principal Chief or Vice Chief are held. This restriction does not apply to amendments that are necessary to comply with decisions of the Cherokee Tribal Court, or to amendments that are procedural or administrative that do not alter the substantive requirements for the actions or persons expressed in this Chapter.

(Ord. No. 556, 12-28-2006; Ord. No. 409, 8-25-2008; Ord. No. 216, 9-30-2010)

BE IT FINALLY ORDAINED that this ordinance shall be effective upon ratification by the Principal Chief and that all prior ordinances or resolutions that are inconsistent with this ordinance are hereby rescinded.

Submitted by: Election Board and Principal Chief