

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

Date: _____

ORDINANCE NO: _____ **(2016)**

WHEREAS, Tribal Council established Cherokee Code Sections 117-100 – 117-112 to establish the role and responsibilities of the Office of Internal Audit and the Audit Committee; and

WHEREAS, the Audit Committee has proposed changes to Sections 117-105 and 117-109.

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 sections 117-105 and 117-109 are amended to read as follows and all other sections remain unchanged:

Sec. 117-100. - Introduction.

This article establishes the role and responsibilities of the Office of Internal Audit within the Eastern Band of Cherokee Indians.

(Ord. No. 464, 9-26-2002; Ord. No. 81, 1-25-2010)

Sec. 117-101. - Objectives.

The Eastern Band of Cherokee Indians (Tribe) supports Internal Audit as an independent appraisal function to examine and evaluate Tribal activities as a service to management and the Audit Committee. The purpose of Internal Audit is to provide independent, objective assurance and consulting services designed to add value and improve the Tribe's operations. It helps the Tribe accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance process. To this end, Internal Audit will furnish them with analyses, recommendations, counsel, and information concerning the activities examined.

(Ord. No. 464, 9-26-2002; Ord. No. 290, 9-21-2012)

Sec. 117-102. - Authorization and independence.

- (a) Internal Audit has the authority to audit all parts of the tribal government and may with the approval of the Audit Committee, audit component units and enterprises of the Tribe. Internal Audit, with strict accountability for confidentiality and safeguarding records and information,

shall have full, free, and unrestricted access to any and all records, physical properties, and personnel relevant to the performance of an audit. Documents and information given to internal auditors will be handled in the same prudent manner as by those employees normally accountable for them. All employees are required to assist Internal Audit in fulfilling its roles and responsibilities.

- (b) Internal Audit will remain free from interference by any element in the Tribe, including matters of audit selection, scope, procedures, frequency, timing or report content to permit maintenance of a necessary independent and objective mental attitude. Internal Audit will have no direct responsibility or authority for any of the activities or operations they review. They should not develop and install procedures, prepare records, or engage in activities that would normally be reviewed by internal auditors. Internal auditors will exhibit the highest level of professional objectivity in gathering, evaluating, and communicating information about the activity or process being examined.

(Ord. No. 464, 9-26-2002; Ord. No. 205, 7-7-2014)

Sec. 117-103. - Scope of work.

- (a) Internal Audit shall perform examinations and evaluations of the adequacy and effectiveness of the Tribe's governance, risk management, and internal controls as well as the quality of performance in carrying out assigned responsibilities. Examinations and evaluations may include, but are not limited to, internal control reviews, operational audits, financial audits, inventory audits, cash counts, and compliance audits. Internal Audit may also perform consulting services including facilitation, process design, training and advisory services. Internal Audit shall also oversee the compliance hotline. Internal Audit's authority shall extend to all entities under the infrastructure of the Tribe.
- (b) The primary objectives of internal control are to ensure:
 - (1) The reliability and integrity of information.
 - (2) Compliance with policies, plans, procedures, laws and regulations.
 - (3) The safeguarding of assets.
 - (4) The economical and efficient use of resources.
 - (5) The accomplishment of established objectives and goals for operations and programs.
- (c) Involvement of Internal Audit in activities such as:
 - (1) Fraud investigations; and
 - (2) Corruption evaluation;

is subject to consultation with, and approval by, the Executive Committee, in each case. If circumstances warrant, the Executive Committee may grant the Office of Internal Audit authority to perform the activities described in this subsection.

(Ord. No. 464, 9-26-2002; Ord. No. 956, 9-4-2003; Ord. No. 81, 1-25-2010; Ord. No. 290, 9-21-2012; Ord. No. 205, 7-7-2014)

Sec. 117-104. - Organization.

- (a) The chief audit executive reports administratively to the Executive Committee (Principal Chief and Vice Chief) and functionally to the Audit Committee. The Audit Committee must concur in the appointment or removal of the chief audit executive.
- (b) Annually, the chief audit executive will submit to the Executive Committee and Audit Committee, a written report on the internal audit activity during the preceding fiscal year. The chief audit executive shall also make an oral report to the Audit Committee quarterly.
- (c) The chief audit executive will communicate and interact directly with the Audit Committee, including in executive sessions and between meetings as appropriate. In addition, if the circumstances ever warrant action against the Executive Committee, the chief audit executive may communicate exclusively with the Audit Committee.

(Ord. No. 464, 9-26-2002; Ord. No. 956, 9-4-2003; Ord. No. 81, 1-25-2010; Ord. No. 205, 7-7-2014)

Sec. 117-105. - Responsibility of chief audit executive.

The chief audit executive is responsible for properly managing the Office so that:

- (1) Audit activities fulfill the purposes and responsibilities approved by the Audit Committee.
- (2) Resources of the Office of Internal Audit are efficiently and effectively employed.
- (3) Audit work conforms to The Institute of Internal Auditors' mandatory guidance including the Definition of Internal Auditing, the Code of Ethics, and the International Standards for the Professional Practice of Internal Auditing. This mandatory guidance constitutes the fundamental requirements for the professional practice of internal auditing and the principles against which to evaluate the effectiveness of the internal audit activity's performance.
- (4) A quality assurance and improvement program is maintained.

(Ord. No. 464, 9-26-2002; Ord. No. 81, 1-25-2010; Ord. No. 290, 9-21-2012; Ord. No. 205, 7-7-2014)

Sec. 117-106. - Assessments and annual audit plan.

- (a) Identifying risk. Annually, Internal Audit shall identify areas of potential risk to the Tribe by performing assessments of its auditable divisions, programs, entities and organizations. Areas of potential risk may arise from fraud, federal regulatory changes and follow-up reviews. It is the policy of the Office of Internal Audit to address these risks by allocating its audit resources to all tribal divisions, programs, entities and organizations, as deemed appropriate by the Audit Committee and the chief audit executive.
- (b) Audit plan and requests. On or before June 30 of each year, Internal Audit shall develop a written Annual Audit Plan. The plan shall be based on careful consideration of risks and needs

identified pursuant to subsection (a). The plan shall include a schedule of audits and other actions to be performed during the next succeeding 12 month period. The plan shall be presented to the Audit Committee for discussion and shall serve as the official schedule of actions for Internal Audit for the subject year. Special requests for additional audits and actions may be presented by the Executive Committee, Tribal Council, and tribal divisions, programs, entities, organizations and individual persons. However, special requests shall not become assignments of Internal Audit requiring deviation from the Annual Audit Plan except upon approval by the chief audit executive and concurrence of the Audit Committee. Any significant deviation from the approved internal audit plan will be communicated to the Audit Committee through periodic activity reports.

- (c) Hotline reporting. Any party wishing to report fraud, waste, and abuse against the Tribe may use a dedicated hotline established for this purpose. Requests for audits may be communicated from any interested party via this hotline. Projects involving potential fraud and those considered to be of "high risk" will receive priority. This hotline will be operated by a third-party administrator and funded by Internal Audit.

(Ord. No. 464, 9-26-2002; Ord. No. 956, 9-4-2003; Ord. No. 81, 1-25-2010; Ord. No. 205, 7-7-2014)

Sec. 117-107. - Audit reports.

- (a) A written report shall be prepared and issued by the chief audit executive or designee following the conclusion of each audit. The report will be addressed to appropriate management. Copies of the report will be distributed to the Principal Chief, Vice Chief, Tribal Council, and appropriate management. The appropriate director and/or manager of the division, program or entity receiving the report shall respond to the Office of Internal Audit indicating within 30 days what actions were taken or will be taken in response to specific report findings and recommendations.
- (b) The director and/or manager receiving the report shall monitor to determine whether progress is made toward correcting any unsatisfactory conditions. When requested the director and/or manager shall provide to Internal Audit a report on the status of corrective actions. Internal Audit shall determine whether the action taken is adequate to resolve audit findings.
- (c) If the action is not adequate, Internal Audit will inform the Executive Committee of the potential risk and exposure in allowing the unsatisfactory conditions to continue. The Audit Committee will be informed if the Executive Committee is the audited party. If appropriate action is not taken within an acceptable timeframe, the Audit Committee will be informed and allowed to exercise their authority as stated in section 117-109(13).

(Ord. No. 464, 9-26-2002; Ord. No. 956, 9-4-2003; Ord. No. 81, 1-25-2010; Ord. No. 290, 9-21-2012; Ord. No. 205, 7-7-2014)

Sec. 117-108. - Liaison with external auditors.

The chief audit executive shall, as necessary, communicate with the independent CPA firm hired by the Tribe as external auditors to:

- (1) Foster a cooperative working relationship;
- (2) Reduce the incidence of duplication of effort;
- (3) Ensure appropriate sharing of information; and
- (4) Ensure optimal audit coverage.

The chief audit executive shall make available to the external auditors all Internal Audit working papers, programs, and reports, as requested.

(Ord. No. 464, 9-26-2002; Ord. No. 81, 1-25-2010; Ord. No. 205, 7-7-2014)

Sec. 117-109. - Audit committee.

The Audit Committee is established to assist with the oversight responsibilities for the financial reporting process, the system of internal control, the audit process and the Tribe's process for monitoring compliance with laws and regulations and the code of conduct. The duties and functions of the Audit Committee shall be as follows:

- (1) The Audit Committee shall meet as a Committee at least quarterly;
- (2) The Committee shall meet with Tribal Council at least one time annually to present the Internal Audit activity report and Audit Committee actions for the preceding fiscal year;
- (3) The Audit Committee shall ensure on behalf of the Eastern Band of Cherokee Indians that:
 - a. Adequate systems of internal control operate within the Tribal Government;
 - b. Adequate attention is paid by internal audit to analysis of efficiency of Tribal operations.
- (4) In particular that includes, but is not restricted to:
 - a. Internal Audit.
 1. Review the Internal Audit reports of audits and reviews that are undertaken.
 2. Review the extent to which Internal Audit recommendations are implemented and the timeliness of responses received.
 3. Approve the Annual Audit Plan and all major changes presented by the chief audit executive.
 4. Based on the Annual Audit Plan, review the Tribe's internal audit staffing level and other audit resources required.
 5. Review internal audit performance and effectiveness to ensure consistency with the approved plans, this division, and relevant professional standards.
 6. Review the performance of the chief audit executive and concur with the annual compensation and salary adjustment.
 - b. Reporting.

1. Review the annual financial statements, receiving explanations for significant variations from the prior year and from budget and refer issues to Tribal Council as necessary.
 2. Review management's corrective action plans submitted to the Executive Committee and the Office of Internal Audit as a result of audit findings.
 3. Review the Management Representation Letter and seek guidance on any unusual representations in the current year and changes in representations from the previous year.
 4. Review compliance with statutory requirements for financial reporting.
 - c. Other.
 1. In closed session, review as necessary any legal matters arising from the Tribe's financial operations.
 2. Recommend such investigations or reviews relevant to its role as it sees fit.
- (5) The Audit Committee shall be comprised of:
- a. Five voting members.
 1. One member of an independent CPA firm selected by the Tribal Council.
 2. One community member not employed by the Tribe or its component units or its enterprises, selected by the Tribal Council;
 3. ~~Three~~Two additional persons selected by the Executive Committee from nominations sent by all component units or enterprises of the Tribe.
 4. One industry expert not employed by the Tribe or its component units or its enterprises selected by the other members of the Audit Committee.
 - b. Four nonvoting participants.
 1. Representative of the independent CPA firm contracted by the Tribe and its entities for their respective annual audits (by invitation of the Executive Committee);
 2. Tribal Attorney General or his/her nominee;
 3. ~~Deputy Financial Officer~~ Secretary of Treasury or his/her nominee;
 4. The Internal Audit Administrative Assistant shall serve as Committee Secretary and Treasurer.
- (6) Voting participants shall serve staggered terms, as follows: the independent CPA member appointed by the Tribal Council shall serve an initial term of one year; the community member selected by Tribal Council shall serve an initial term of two years; and the ~~threetwo~~ two additional persons selected by the Executive Committee and approved by Tribal Council from component units or enterprises of the Tribe shall serve initial terms of three years. The industry expert selected by the other members of the Audit Committee shall

serve an initial term of four years. After initial term, the respective participants shall serve terms of ~~two~~ four years.

- (7) Audit Committee members shall be identified in a resolution and those requiring approval shall be approved by resolution presented to Tribal Council by the chief audit executive.
- (8) Three voting members of the Audit Committee shall constitute a quorum.
- (9) The Chairperson shall be selected by majority vote of Audit Committee members, as the first order of business if no Chair is in place.
- (10) The Audit Committee Chairman shall not vote, unless there is a tie.
- (11) Each member not currently receiving wages reported on a W-2 by the Tribe or its component units or enterprises shall be paid a per diem at a rate annually proposed by the chief audit executive and approved by the Audit Committee.
- (12) Each member of the Audit Committee shall pledge, via oath or affirmation, his/her commitment to the principles in subsection (3) of this section; to keep information learned through committee membership in strict confidentiality; to disclose all material conflicts of interest he/she may have with respect to issues that arise in committee discussion and work; to abstain from voting on any question in which he/she has a conflict of interest.
- (13) The Committee shall have the authority and obligation to notify the governing agency or body with jurisdiction over any audited program that does not take corrective action during the time specified in its action plan. Specifically these agencies/bodies include:
 - a. Tribal Council and Executive Committee, Eastern Band of Cherokee Indians;
 - b. Office of the Inspector General, U.S. Department of the Interior;
 - c. Office of Audit and Evaluation, U.S. Bureau of Indian Affairs;
 - d. Office of the Comptroller General, U.S. General Accounting Office; and
 - e. Federal Bureau of Investigation, U.S. Department of Justice.

(Ord. No. 464, 9-26-2002; Ord. No. 956, 9-4-2003; Ord. No. 81, 1-25-2010; Ord. No. 290, 9-21-2012; Ord. No. 205, 7-7-2014)

Sec. 117-110. - Policies and procedures.

- (a) Policies and procedures shall be established by the chief audit executive and approved by the Audit Committee as to matters beyond the scope of this ordinance.
- (b) The Audit Committee may adopt by-laws, provided that such by-laws shall not contain provisions inconsistent with or in violation of Code Sections 117-100—117-112 and applicable law.

(Ord. No. 464, 9-26-2002; Ord. No. 81, 1-25-2010; Ord. No. 205, 7-7-2014)

Sec. 117-111. - Amendment.

Proposed amendments to this part 1 of article V shall be submitted to the Audit Committee for review before being presented to Tribal Council.

(Ord. No. 464, 9-26-2002; Ord. No. 956, 9-4-2003)

Sec. 117-112. - Access to confidential information.

The Office of Internal Audit shall have access to and may use confidential information if the information is necessary for the performance of its official duties, regardless of restrictions on access and use of confidential information imposed elsewhere in the Cherokee Code or in the rules, procedures, guidelines or other directives written by the Tribe or its component units and enterprises. When exercising its right to access and use confidential information the Office of Internal Audit shall take all steps reasonable and necessary to maintain the confidentiality of the information.

(Ord. No. 956, 9-4-2003; Ord. No. 205, 7-7-2014)

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

Submitted by the Office of Internal Audit on behalf of the Audit Committee