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Cherokee Code
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 2019 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 2019 and each four years thereafter.
- (c) The Primary Election for the offices of Tribal Council shall be held on the first Thursday in June 2019 and each two years thereafter.
- (d) A Primary Election run-off shall be held on the third Thursday in June 2019 and each two years thereafter, if necessary.
- (e) A General Election run-off shall be held on the third Thursday in September 2019 and each two years thereafter, if necessary,

Sec. 161-2. - Tribal Offices.

- (a) The Principal Chief and Vice-Chief shall be elected and hold office for terms of four years but shall not be eligible to hold office for more than two consecutive terms.
- (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.

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.

- 1
2 (b) In order to run for or serve as a member of the Tribal Council, a candidate must:
3 (1) Be an enrolled member of the Eastern Band of Cherokee Indians; and
4 (2) Be at least 18 years of age by the date of the primary election; and
5 (3) Have resided in the township which he or she is to represent for at least 90 days
6 immediately preceding the date of the primary election; and
7 (4) Continue to reside in the township in which the candidate was elected during their
8 term of office; and
9 (5) Be a registered voter with the Tribal Election Board.
10
11 (c) In order to run or serve as a member of the Cherokee School Board, a candidate must:
12 (1) Be an enrolled member of the Eastern Band of Cherokee Indians; and
13 (2) Be at least 21 years of age by the date of the primary election; and
14 (3) Reside in the community the candidate represents for at least one year immediately
15 preceding the date of the primary election and continue to reside in that community
16 during the term of office; and
17 (4) Have received a high school diploma or the equivalent; and
18 (5) Be a registered voter with the Tribal Election Board.
19
20 (d) No person shall ever be eligible to file for or serve in any of the above Tribal Offices, if:
21
22 (1) The person has been convicted of, pled guilty to, or entered a no-contest plea to a
23 felony; or
24 (2) The person has aided, abetted, counseled, or encouraged any person or persons
25 guilty of defrauding the Eastern Band of Cherokee Indians; or
26 has defrauded the Tribe, or who may hereafter aid or abet, counsel or encourage
27 anyone in defrauding the Eastern Band of Cherokee Indians; or
28 (3) The person has been impeached and removed by the Tribal Council from any
29 elected or appointed office, or found guilty in any jurisdiction to have violated a
30 law that would constitute a violation of Section 17 of the Charter and Governing
31 Document of the Eastern Band of Cherokee Indians; or
32 (4) The person resigned from Tribal elected or appointed office while under criminal
33 investigation or under pending charges for fraud, or a violation of Section 17 of
34 the Tribal Charter or Tribal Law; or
35 (5) The person is more than ninety (90) days in default of an obligation to pay a debt
36 to the Tribe, which obligation is imposed by law, contract or court order and the
37 default has not been cured; or
38 (6) The person fails to meet the residency requirements for elected office.
39
40 (e) No person may file for, run for, or hold more than one Tribal elective office at any one
41 time. However, a person may run for Tribal elected office while holding a different Tribal
42 office, so long as the person resigns from the current elected office prior to taking the oath
43 of office for the newly elected office.
44
45 (f) No person is eligible to hold the office of Principal Chief, Vice-Chief or Tribal Council
46 member while simultaneously being a Tribal employee or an employee of a Tribal entity. A

1 Tribal employee may run for office, but if elected must resign prior to taking the oath of
2 office for Principal Chief, Vice-Chief, or Tribal Council.
3

4 (g) No person is eligible to hold the office for Cherokee School Board Member while
5 simultaneously being an employee or student of the Cherokee Central School System. An
6 employee of the Cherokee Central School system may run for a seat on the Cherokee
7 School Board, but that employee must resign from employment before taking the oath of
8 office on the School Board.
9

10 (h) Where this section requires a person to reside or to have resided on Cherokee trust land
11 generally or in a particular Cherokee township or community, that requirement shall mean
12 that the person has made that place their primary, permanent place of abode for the
13 required period. It is where they live full-time except for temporary absences of relatively
14 short duration. All candidates and elected officials must continue to meet residency
15 requirements of their elected office for the duration of their candidacy and, if elected, for
16 the duration of their term(s). Any elected official who violates the residency requirement
17 shall be ineligible to hold the office and shall be removed therefrom by process of
18 applicable law. Suspected violations of the residency requirement shall be reported to the
19 Board of Elections in writing by the constituency of that elected office, e.g., Principal Chief
20 or Vice-Chief residency violations must be made by any enrolled member of the Tribe;
21 Tribal Council or School Board member residency violations must be made by an enrolled
22 member of the Tribe registered to vote in the township of the elected office.
23

24 **Sec. 161-4. - Filing for office – Certification of candidates.**
25

26 (a) All persons filing to be a candidate for Tribal elected office shall do so under his or her own
27 name and his or her original signature. All documents required to be filed with the Board of
28 Elections must bear the original signature of the candidate/principal and shall not be signed
29 by any person as an agent acting on behalf of the candidate/principal through a power of
30 attorney or other delegation of authority. This requirement applies to all applications for
31 candidacy and all other documents required to be filed with the Board of Elections by
32 candidates. Nothing in this subsection applies to the marking of ballots.
33

34 (b) All persons filing to be a candidate for election to the office of Principal Chief, Vice-Chief,
35 Tribal Council, or School Board shall do all of the following:

36 (1) Pay the required filing fees at the Tribal Finance Office no sooner than March 1 and no
37 later than March 15 of the year of the election. Persons paying such fees are advised to
38 inform themselves of the hours of operation of the Tribal Finance Office.

39 a. The filing fee to be a candidate for the office of Principal Chief or Vice Chief is
40 \$700.00.

41 b. The filing fee to be a candidate for a seat on Tribal Council is \$500.00.

42 c. The filing fee to be a candidate for a seat on the School Board is \$350.00.
43

44 Filing fees are non-refundable and shall be paid by cash, cashiers check or money order.
45 A receipt from the Tribal Finance Office, showing that the applicable filing fee has been

1 paid, shall be submitted with the candidate application forms described in subparagraph
2 (2), below.
3

4 (2) Submit to the Board of Elections completed and properly executed candidate application
5 forms (also known as filing forms). The same deadline that applies for payment of the
6 filing fees above applies to submission of the candidate application forms.

7 (c) The Board of Elections shall review all applications and other required information, including
8 but not limited to background checks, and ensure that the required filing fees have been paid
9 in order to certify whether or not each applicant is eligible to be a candidate for Tribal elected
10 office. The Board of Elections shall notify each applicant of its decision by registered mail on
11 or before March 31 of the election year or may be picked up in person from the Board of
12 Elections Office on or before the March 31 deadline provided the person signs, at the Board
13 office, proof of receipt of the notice of decision. Any adverse decisions shall include a clear
14 and concise statement as to the reason(s) for denial of an applicant's eligibility and shall
15 include the following information:

16 (1) That the applicant may appeal the denial of certification and may request a hearing
17 before the Board of Elections for the appeal. The request for a hearing before the
18 Board shall be in writing, signed by the applicant, and shall be filed with the
19 Chairman of the Board within five (5) business days of receipt of notice of the
20 denial. The person appealing the decision of the Board shall pay the appeal filing
21 fee expressed by the Board in its schedule of fees.

22 (2) If an appeal is timely and properly filed, the Board shall schedule a hearing and that
23 hearing shall be held within five (5) business days of the date the Board received
24 the notice of appeal. The Board shall give the person whose eligibility was denied
25 notice of the date and time for the hearing. Notice of the scheduled hearing shall
26 be provided as described in C.C. Sec. 161-29 ("Service of communications by the
27 Board of Elections") within two (2) business days of the date the Board received
28 the request for hearing.

29 (3) At the appeal hearing before the Board, the appellant shall have the right to present
30 written evidence and/or oral testimony to address the deficiency in their application
31 that was identified by the Board's decision which deficiency rendered the appellant
32 ineligible.

33 (4) The Board shall issue a written decision within five (5) business days following the
34 hearing. The written decision shall express whether or not the prospective candidate
35 satisfies the requirements for the office for which candidacy is sought. The final
36 written decision from the Board of Elections shall be provided to the applicant in
37 any of the ways described in C.C. Sec. 161-29 ("Service of communications by the
38 Board of Elections"). A decision by the Board of Elections to affirm its prior
39 decision that the person is ineligible may be appealed by that person to the
40 Cherokee Supreme Court for error of law. The only person with standing to appeal
41 to the Court shall be the person whose eligibility was denied.

42 (d) Within three (3) business days of receipt of notice of certification as a candidate for
43 Tribal office, the candidate shall do the following:

- 1 (1) sign an agreement under oath to use the voter registration list provided to the
2 candidate pursuant to Section 161-11.3 of this Chapter only for truthful
3 communications with eligible voters in connection with the election and to clearly
4 identify himself/herself in all such election-related communications;
- 5 (2) affirm in writing and under oath that they are aware of, understand and agree to
6 follow the requirements of this Chapter including, but not limited to, the following:
- 7 (i) the residency requirements for the office sought;
- 8 (ii) the eligibility criteria to be a candidate for the office sought;
- 9 (iii) that communications by the candidate with the Board and with public shall be
10 truthful; and
- 11 (iv) applicable financial and ethics reporting requirements expressed in this Chapter
12 and C.C. § 117-45.3(9) (Code of Ethics).
- 13 (v) that any violations of the requirements for candidacy or the oaths or attestations
14 shall be grounds for de-certification by the Board of Elections.
- 15 Any claims or complaints of violation of the requirements of this subpart (2) shall
16 be directed to the Board of Elections for investigation.

17
18 **Sec. 161-4.1 – Decertification of a candidate.**
19

- 20 (a) If at any time before the primary, general or special election at issue, a candidate for
21 elected office no longer meets the applicable eligibility requirements, the Board of
22 Elections may decertify that person as a candidate. A decertified candidate may request a
23 hearing as provided in this section.
- 24
- 25 (b) Only the following shall have standing to file a protest seeking decertification of a
26 candidate whom the Board has already determined is eligible to run for office in that
27 election cycle:
- 28 (1) The Board of Elections upon its own initiative and investigation; or
- 29 (2) Any enrolled member of the EBCI who is registered to vote in the Tribal
30 election. All protests must be submitted to the Board of Elections in writing
31 and on forms provided by the Election Board or, if not on forms provided by
32 Board, then in a typed or legible writing. Each protest shall contain sufficient
33 detail to give the Board notice of the facts that the protester asserts support
34 decertification. All protests shall, at a minimum, contain the following
35 information: (1) the name, mailing address, physical address, telephone
36 number and email address (if one is available) of the protester; (2) the dates
37 and approximate times of the act(s) being protested; (3) a description of the
38 subject of the protest; (4) the name, mailing address, telephone number and
39 email address (if one is available) of all witnesses known to the protester; and
40 (5) copies of all supporting records, photos and other documentary evidence
41 in the possession or control of the protester that the protester wants the Board
42 to consider. All protests must include a sworn statement signed by the

1 protester, before a notary, that the allegations presented in the protest are true
2 or that the protester, upon information and belief, believes them to be true.

3 (c) Such protest shall be filed with the Board no later than five (5) business days after the
4 Board publishes in the Cherokee One Feather the preliminary unofficial list of candidates
5 for the election at issue. The person filing the protest shall pay the protest filing fee
6 expressed by the Board in its schedule of fees.

7 (d) Acting on its own investigation or upon receipt of a timely filed protest to decertify a
8 candidate, the Board of Elections shall give written notice to the candidate at issue within
9 two (2) business days which notice shall inform the candidate that:

10 1. The Board has, upon its own investigation, determined that the candidate
11 does not meet the eligibility requirements and should be decertified, and the
12 notice shall state the particular grounds supporting decertification; or

13 2. The Board has received a written protest from a properly registered voter
14 and the protest alleges that the candidate is not eligible and should be de-
15 certified. A copy of the protest and all supporting documents submitted by
16 the protestor shall be included with the notice.

17 3. Notice shall be provided in any of the ways described in C.C. Sec. 161-29
18 (“Service of communications by the Board of Elections”).

19 (e) The candidate or the challenger may request a hearing before the Board. The request shall
20 be in writing and shall be filed with the Chairman of the Board within five (5) business
21 days of receipt of the notice of the complaint from the Board.

22 (f) Within five (5) business days of the date the Board received the request for hearing, the
23 Board shall schedule a hearing to be held within ten (10) business days. The Board shall
24 give the candidate and the challenger notice of the hearing in any of the ways described in
25 C.C. Sec. 161-29 (“Service of communications by the Board of Elections”).

26 (g) At the hearing before the Board, the parties shall have the right to present written evidence
27 and/or oral testimony to address the alleged grounds for decertification.

28 (h) The Board shall issue a written decision within five (5) business days following the hearing.
29 The written decision shall express whether or not the candidate satisfies the requirements
30 for the office for which candidacy is sought. The final written decision from the Board of
31 Elections shall be sent to the candidate and the challenger, if any, in any of the ways
32 described in C.C. Sec. 161-29 (“Service of communications by the Board of Elections”).
33 The decision of the Board of Elections affirming its decision that the person is eligible and
34 remains certified as a candidate, or reversing its decision and decertifying the candidate,
35 may be appealed to the Cherokee Supreme Court by the non-prevailing party. The
36 Supreme Court shall review the decision of the Board for error of law.

37 (i) A protest of a person’s certification as a candidate by the Board of Elections shall be filed
38 within thirty (30) days of the last date on which the Board of Elections may issue such a
39 certification. The protest is void if it is not filed within that thirty (30) day period.

1 **Sec. 161-4.2. - Write-in candidates.**

- 2
- 3 (a) All persons wishing to run as write-in candidates in the primary election must declare their
4 candidacy by filing with the Board of Elections between April 1 and April 15 of a primary
5 election. All candidates must complete a filing form to establish that they meet the
6 qualifications of the office for which they file.
- 7 (b) Write in candidates shall pay a filing fee in the amount as required by the registered candidate
8 as specified in Subsection 161-4(b) of this Chapter.
- 9 (c) The Board of Elections shall review all write-in forms and shall certify each applicant as
10 either eligible or ineligible and notify the applicant of its decision by April 30.
- 11 (d) Write-in votes will not be counted unless the first and last name of the candidate is written
12 on the ballot. The name of the candidate for purposes of write-in voting is the name filed by
13 the candidate with the Board of Elections. The Board of Elections shall make public the names
14 of write-in candidates certified as eligible for each Tribal office no later than seven days before
15 the primary election.
- 16 (e) Unless a person has filed with and been certified as a write-in candidate by the Board of
17 Elections pursuant to Subsection (a) thru (c) of this Section, no write-in votes for that person
18 shall be counted or reported by the Board of Elections.
- 19 (f) No write-in voting is permitted in the general election, and no write-in votes cast in the
20 general election shall be counted or reported.
- 21 (g) No stickers preprinted with a candidate's name are permitted for write-in voting.

22

23 **Sec. 161-5. – Primary elections.**

24

- 25 (a) The two candidates receiving the most votes for the office of Principal Chief and Vice-Chief
26 and the four candidates receiving the most votes for the two Tribal Council seats in each
27 township shall be certified by the Board of Elections, and their names shall be placed on the
28 ballot for the general election.
- 29 (b) The two candidates receiving the most votes for the office of School Board in each district
30 shall be certified by the Board of Elections, and their names shall be placed on the ballot for
31 the general election.
- 32 (c) If two or fewer candidates file and are certified eligible under Section 161-4 for Principal
33 Chief, Vice-Chief, or a district School Board position, then no primary election shall be held
34 for that office, and those candidates shall have their names placed on the ballot for the general
35 election.
- 36 (d) If four or fewer candidates file and are certified eligible under Section 161-4 for Tribal
37 Council in a particular township, then no primary election for Tribal Council shall be held in
38 that township, and those candidates shall have their names placed on the ballot for the general
39 election.

40

41 **Sec. 161-6. - Recounts.**

42

- 1 (a) If the vote count in any Tribal election results in a tie, the Board of Elections shall conduct
2 a recount of all ballots cast for that particular office or seat. Such recount shall be
3 conducted by the Board of Elections within two (2) business days after the closing of the
4 polls for that election. The recount shall be performed by the members of the Board of
5 Elections. A “tie” is defined as two or more candidates for the same seat receiving the
6 same number of votes.
- 7 (b) If any unsuccessful candidate in any Tribal election is defeated by no more than two
8 percent (2%) of the total number of votes cast for that particular office or seat, such
9 candidate may request a recount by filing a written request with the Board of Elections
10 within two (2) business days after the closing of the polls for that election. The recount
11 shall be conducted by the Board of Elections within three (3) business days of filing of the
12 request by the unsuccessful candidate.
- 13 (c) The two percent (2%) threshold necessary for a recount shall be measured by answering
14 the following question: is the difference between the number of votes received by the
15 unsuccessful candidate who is seeking the recount, and the immediately closest successful
16 candidate, within two percent (2%) of all the votes cast for those two candidates? If the
17 difference is within two percent (2%), the Board of Elections shall conduct a recount if a
18 request for a recount is filed pursuant to this section. Any fraction of a percent over two
19 percent (2%) shall be considered outside the two percent (2%) threshold requiring a
20 recount.
- 21 (d) At the conclusion of any such recount, the Board of Elections shall announce the
22 unofficial results of the recount for that office pending official certification of the results
23 of the election to the Tribal Council pursuant to Section 161-16.1 of this Chapter.
- 24 (e) Any candidate on a ballot subject to a recount by the Board of Elections may personally
25 observe the recount which will be televised and in a controlled environment to observe the
26 recount. Should the candidate choose to not attend, they may designate one representative
27 to observe the recount. Such representation must be designated in writing, with such
28 written appointment delivered to the Board of Elections prior to the commencement of the
29 recount. Such observers shall not participate in or interfere with the recount activities of
30 the Board of Elections and may be ejected by the chairman if they interfere with or disrupt
31 the recount process.
- 32 (f) Regardless of any other expression in this section, nothing in this section shall prohibit the
33 Board of Elections from recounting ballots upon its own initiative as part of an
34 investigation, for quality control purposes.

35
36 **Sec. 161-7. - Run-off elections.**

- 37
38 (a) The Board of Elections shall have the authority to conduct run-off elections to fill the
39 offices for Principal Chief, Vice-Chief, Tribal Council, and School Board.
- 40 (b) A run-off election shall be held within fifteen (15) calendar days of the decision of the
41 Board of Elections to hold such a run-off.
- 42 (c) The Board of Elections shall have authority to conduct run-off elections if any of the
43 following occur:
- 44 (1) The Board determines that a recount of ballots would not produce an accurate
45 vote count; or

- 1 (2) The Board determines upon research and investigation conducted on its own
2 initiative, or in response to a timely filed protest under C.C. Sec. 161-16, that
3 irregularities in the conduct of the election affected the actual outcome of the
4 election or rendered the results contrary to the Tribal Charter or this Chapter; or
5 (3) The Board determines upon research and investigation conducted on its own
6 initiative, or in response to a timely filed protest under C.C. Sec. 161-16, that
7 irregularities in the conduct of the election rendered the results unreliable by clear
8 and convincing evidence.
- 9 (d) If, after a recount of ballots by the Board of Elections, two or more candidates running for
10 elected office receive the same number of votes and the individual number of votes cast for
11 each candidate represents the largest vote total by any candidate in the primary election for
12 the last available position on the general election ballot, the Board shall conduct a primary
13 run-off election between such candidates. The candidate receiving the greatest number of
14 votes in that primary run-off election shall be deemed eligible to stand for the general
15 election.
- 16 (e) If, after a recount of ballots by the Board, in the Tribal Council general election, two
17 candidates receive the same number of votes and the individual number of votes cast for
18 each candidate represents the largest vote total by any individual candidate for that
19 township, there will be no run-off election. The two candidates with the highest vote totals
20 shall be deemed elected to the two (2) Council seats for that township.
- 21 (f) If, after a recount of ballots by the Board of Elections in the Tribal Council general
22 election, two or more candidates receive the same number of votes that constitute the
23 second highest vote totals by any individual candidate for that township, the Board shall
24 conduct a run-off election between such candidates. The candidate receiving the greatest
25 number of votes in the run-off election shall be deemed elected to the second Council seat
26 for that township.
- 27 (g) If, after a recount of ballots by the Board of Elections, two or more candidates running for
28 a seat on the School Board, or for the office of Vice Chief, or the office of Principal Chief,
29 receive the same number of votes in the general election and the individual vote totals
30 represent the largest vote total by any individual candidate for that race, the Board shall
31 conduct a run-off election between such candidates. The candidate receiving the greatest
32 number of votes in the run-off election shall be deemed elected to office.
- 33 (h) Should the Board of Elections determine that a recount of ballots would not determine the
34 accurate vote count or make either of the determinations described in subsection (c)(2) or
35 (c)(3) of this section, the Board shall conduct a run-off election between only the
36 candidates that the Board deems necessary to resolve any issues concerning the accuracy of
37 the vote count or to remedy irregularities in the conduct of the election. All decisions made
38 by the Board of Elections in regards to run-off elections shall be final.
- 39 (i) The Board of Elections shall not provide absentee ballots for run-off or special elections.
40

41 **Sec. 161-8. – Reserved.**

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45 **Sec. 161-9. - Referendums/initiatives.**

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

3 (b) *Definitions.*

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

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

8 (c) *Process.*

9 (1) A referendum/initiative issue shall only be established by resolution of the Tribal Council,
10 duly ratified by the Principal Chief.

11 a. A referendum initiated by Tribal Council does not need a petition.

12 (2) A petition requesting the Tribal Council to authorize an election on a
13 referendum/initiative question shall require:

14 a. Twenty-five percent (25 %) of registered voters to sign a petition in support of a
15 referendum/initiative on a proposed ordinance or action by the Tribal Council or
16 Principal Chief.

17 b. Thirty-three percent (33 %) of registered voters to sign a petition the Tribal Council
18 for resolution for a referendum/initiative election on a proposed change to the Charter
19 or Governing Document.

20 (3) Only natural persons may petition for a referendum on an issue.

21 (4) A petition shall be on a standardized form provided by the Board of Elections and shall
22 include the designation of three (3) signatories comprising the Petitioner's Committee with
23 their names, addresses and enrollment numbers; multiple lines for the signee's printed
24 name, signature, date of signature, address, and enrollment number of supporters of the
25 petition; and a full explanation of the proposed action sought by referendum and shall
26 include the full text of the proposed action. The Petitioner's Committee shall be
27 responsible for the content of the proposed legislation. This proposed legislation shall
28 appear on all signature sheets.

29 (5) The Petitioner's Committee shall submit the proposed referendum language and the text
30 explaining the proposed action to the Board of Elections for review to pre-certify the
31 referendum issue/question as consisting of only one issue or question prior to collecting
32 signatures on the petition. The Board shall have sixty (60) days from the date the
33 Petitioner's Committee submits the referendum language to review the information
34 submitted and to pre-certify the question for the petition. If the Board makes a negative
35 finding, the Petitioner's Committee can revise and resubmit the proposed referendum to
36 the Board.

37 (6) Petition Certification by the Board of Elections.

38 a. Once the Petitioner's Committee has collected all the required signatures, the
39 signed petitions shall be submitted to the Board of Elections for verification that

1 all information required on the petition, including the required number of
2 signatures and all associated information, is contained on the petition. The Board
3 of Elections shall have ninety (90) days to approve or deny certification of the
4 petition. If the Board denies certification, the Petitioner's Committee may attempt
5 to cure the deficiencies and resubmit the signed petitions to the Board.

- 6 b. Any signature more than one (1) year old on a petition, and any signature of a
7 person who is no longer a registered voter shall be void and not counted.

8 (7) Submission of Certified Petition to Tribal Council and the Principal Chief.

- 9 a. After the Board of Elections certifies the petition, the Petitioner's Committee shall
10 submit the certified petition to the Tribal Council. The Tribal Council Chairman
11 shall place the petition on the agenda of the next regularly scheduled Tribal
12 Council session. Nothing in this section requires an immediate decision by Tribal
13 Council assembled, and nothing herein prohibits Tribal Council from tabling the
14 matter for review and other actions within its authority.

15 (8) Required votes.

- 16 a. Not less than fifty-one percent (51 %) of registered voters must vote in a
17 referendum/initiative election on a proposed amendment to the Charter or
18 Governing Document or the election is deemed void.
- 19 b. Not less than thirty percent (30%) of registered voters must vote in a
20 referendum/initiative election to enact or repeal an ordinance or resolution or the
21 election is deemed void. No decision approved or denied by the voters on an issue
22 shall be reconsidered by Tribal Council for two (2) years.

23 (9) All registered voters shall be eligible to vote on a referendum issue.

24 (10) Referendums for any purpose of this Section shall be conducted by the following
25 procedures:

- 26 a. The Board of Elections shall conduct a referendum election for any purpose other
27 than that of modifying the Charter and Governing Document within ninety (90) days
28 of ratification of the resolution approving the issue for a referendum vote.
- 29 b. Within ten (10) business days of ratification of the resolution the Board of Elections
30 shall provide public notice for the upcoming referendum by advertising in the
31 Cherokee One Feather, Graham Star, and Cherokee Scout and by mailing notice to
32 all eligible voters. The notice shall contain an election schedule which shall notify
33 all voters of the date of the election, the question to be voted on and the date in which
34 the voter registration rolls will close.
- 35 c. The Board of Elections shall close the voter registration books thirty (30) days prior
36 to the referendum election.
- 37 d. The Board of Elections shall appoint all election officials thirty (30) days prior to the
38 election. The Board shall conduct an orientation for election officials prior to the
39 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 to vote by absentee ballot must be submitted or post-marked by the U.S. Postal Service not less than fifteen (15) days prior to the election.
 - g. All absentee ballots for referendum election must meet the same criteria for any other election and must be returned to and received by the Board of Elections not less than five (5) days prior to the referendum election.
- (11) The outcome of the referendum vote, if it has first met the minimum threshold of voters, shall be certified by the Board of Elections and shall be deemed a binding action or law duly passed and ratified by the Principal Chief.
- (12) Any protest regarding an election irregularity shall be conducted (C.C. § 161-16).
- (13) An issue that has been brought before eligible voters and voted upon by resolution on a referendum/initiative, regardless if the vote is later deemed void for lack of the required percentage of voters, may not be voted upon again by voters in a referendum/initiative election until a period of two (2) years has passed from the date of the immediately preceding vote by eligible voters.

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.

Sec. 161-11. - Registration.

- (a) Voter registration shall be conducted in such offices as may be designated by the Board of Elections. The office designated by the Board shall be open for registration on all regular business days, except as otherwise provided in this section. All voter registration shall only be made in person or through the United States Postal Service (USPS) mail. All voter registration cards submitted to the Board must have the tribal member’s signature notarized and must include a copy of the voter's government issued photo ID card.
- (b) Persons who are eligible to vote in EBCI Tribal elections 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, if applicable. Tribal members who have never resided on Cherokee Trust Lands but who are eligible to vote shall register in the

1 township in which his/her enrolled mother last resided. If the voter's mother was not an
2 enrolled member or never held a residence on Cherokee Trust Land, then the Tribal
3 member shall register in the township his/her enrolled father last resided, if applicable.
4

5 In the case that neither the eligible voter's mother or father held a residence on Cherokee
6 Trust Land, then the eligible voter shall register in the township where their nearest
7 matrilineal ancestor last resided. If the voter's mother's side of the family is not of
8 Cherokee descent, then the first matrilineal line on the father's side shall be used to
9 determine township, as information permits.
10

11 For the purpose of this section the terms "mother" and "father" shall mean biological
12 mother and biological father, unless a legal adoption has occurred, in which case "mother"
13 and "father" shall mean adoptive mother and adoptive father. Eligible voters moving from
14 one township to another must reregister in the new township. Failure to re-register before
15 an election may prohibit the voter from participating in an election for Tribal Council or
16 School Board.
17

- 18 (c) The Board of Elections may conduct special registrations within any township if it is
19 deemed advisable. All such special registration shall be published at least one week in
20 advance in the Cherokee One Feather, Cherokee Scout, and Graham Star.
21
- 22 (d) The Board of Elections shall close the voter registration books at the close of business on
23 the Friday immediately preceding the date set for early voting and the books shall remain
24 closed until the first Monday immediately following the primary election. Tribal members
25 who have not registered to vote prior to the closing of the registration books shall not be
26 eligible to vote in the primary election. Those registered voters who change their residence
27 during the period in which voter registration books are closed are not required to update
28 their registrations until the registration rolls reopen. The residency requirement of C.C.
29 Sec.161-11.1(a) shall be waived during the period in which voter registration books are
30 closed pursuant to this section to resolve any conflicts with C.C. Sec.161-11.1(a).
31
- 32 (e) The Board of Elections shall open the voter registration books on the Monday following
33 the primary election and the books shall remain open until the close of business on the
34 Friday immediately preceding the date set for early voting during the general election and
35 the books shall remain closed until the first Monday immediately following the general
36 election. During the period when the registration rolls are closed those registered voters
37 who change their residence are not required to update their registration until the
38 registration rolls reopen. This residency requirement of Subsection 161-11.1(a) of this
39 Chapter shall be waived during this period to resolve any conflicts within this Chapter.
40
- 41 (f) The Board of Elections shall reopen the voter registration books on the next business day
42 following the certification of the results of the general election to Tribal Council.
43

44 **Sec. 161-11.1. - Changes in voter registration.**
45

- 1 (a) Once a person is registered by the Board of Elections, they shall remain registered until such
2 time as they move to a different township, or an investigation made by the Board of Elections
3 has found an improper township registration, at which time they must register in the new
4 township pursuant to Subsection 161-11(b) of this section.
- 5 (b) Registered voters may terminate their registration by presenting a notarized request to the
6 Board of Elections. This action shall be final upon notification of termination by the Board of
7 Elections.
- 8 (c) Persons living in long-term care facilities and those who are displaced due to emergency
9 situations may petition the Board of Elections for a waiver for the change of township
10 requirement in Subsection (a) of this section. Waivers may be issued upon proof of
11 displacement.
- 12 (d) The Board of Elections shall purge its lists of voters annually for deceased voters in each
13 community.

14
15 **Sec. 161-11.2. - Challenges to voter registration.**

- 16
17 (a) When the Board of Elections has or receives evidence demonstrating to the Board's
18 satisfaction that a voter is not registered in the correct township, the Board shall notify the
19 voter in writing and give the voter five (5) business days to submit a township change or
20 to request a hearing as provided below to present information as to why the township
21 should not be changed.
- 22
23 (b) A challenge to a voter's township registration may be made by any enrolled member who
24 is registered to vote in the Tribal election, as provided in Section 161-11.1 through 161-
25 11.3. No protests of a voter's township registration shall be accepted or acted upon by the
26 Board of Elections between April 14 and the first business day following the certification
27 of the general election results. Such challenge the Board shall weigh the evidence
28 provided accordingly and issue the proper investigation required. See C.C. Section 161-16
29 for proof of residency. The Board shall determine the voter's correct voting township
30 based on the evidence. The Board has the authority to move the voter's registration to the
31 correct township and notify each voter in writing of any changes. No changes shall be
32 made to a voter's township when the registration rolls are closed.
- 33
34 (c) The Board of Elections is authorized to utilize all resources available to properly
35 document a voter's residence for registration purposes. The burden is placed upon the
36 voter to dispute a decision made by the Board of Elections to the registration books
37 regarding a voter's township. Any affected voter may request a hearing before the Board
38 of Elections within five (5) business days from receipt of a change of township notice. The
39 Board shall afford any voter a hearing within five (5) business days from receipt of
40 hearing request. The affected voter has the right to present any witnesses or
41 documentation to the Board of Elections during the hearing. The Board will issue its
42 decision within five (5) business days from the date of the hearing to either rescind or
43 uphold its decision.

44
45 **Sec. 161-11.3. - Notice of voter registration.**

- 1
2 (a) The Board of Elections shall maintain a list of all registered voters in the office of the Board
3 of Elections. The Board of Elections shall mail registered voters notice of any new voter
4 registration laws in order to give voters the opportunity to make corrections to their voter
5 registration as may be necessary.
- 6 (b) The Board of Elections shall prepare and provide to each candidate a printed and electronic
7 listing of each registered voter within the candidate's precinct. This list shall contain the name
8 and current mailing address for each voter and shall be accessible by the candidate to be
9 utilized electronically for its intended purpose. The voter list shall be furnished to each
10 candidate in printed form, and if requested by the candidate, in electronic form set by field
11 identifiers in a manner to permit the candidate to utilize the list electronically for the intended
12 purpose of communication with the registered voters. All mailing addresses will be provided
13 by the EBCI Enrollment Department. The Board of Elections shall cross-reference registered
14 voters between townships prior to each Tribal election. Except as provided in this subsection,
15 the Board shall not be required to give any other lists or other database information to
16 candidates. The candidates are authorized to use such lists only for lawful communications
17 with registered voters related to the election campaign. Only the most recent lists as dated and
18 issued by the EBCI Board of Elections to the candidate shall be deemed valid. Previously
19 dated lists shall not be used for campaigning or comparative purposes.
- 20 (c) The Board of Elections shall not release any information regarding an individual's personal
21 voting participation to candidates or the general public. Voter registration cards are property
22 of and shall only be issued by the EBCI Board of Elections.

23
24 **Sec. 161-12. - Polling places.**

- 25 (a) All designated polling places will be determined by the Board of Elections; and
26 (b) All polling places shall be located on trust land.
27 (c) No campaign signs of any kind shall be allowed within 100 yards of designated polling
28 places for a period of one week prior to the Election Date.
29 (d) The Board of Elections shall cause all polling places to have operational security cameras
30 onsite and working whenever voting is conducted at the site. Security cameras may record
31 audio, visual, or both. Security cameras shall be used to record activity at the polling
32 place but shall not be placed on ballot equipment or in individual voting booths. Acquisition,
33 control, use and access to the security cameras shall be determined by the Board of
34 Elections, and shall depend on adequate funding for the equipment and personnel being
35 provided by Tribal Council. The security cameras shall be used to provide a visual and/or
36 audio record of activities at the polling place when voting is performed. The records
37 produced by the cameras shall be preserved for not less than one (1) year after the election
38 at issue.
39 (e) All polling places shall be managed to provide an opportunity for registered voters to cast
40 their votes in an orderly manner. Minor children may accompany adults to polling places
41 and to the voting machine; provided, however, that no person, regardless of age or any
42 other factor, shall be allowed to disturb or disrupt others who are attempting to cast their
43 vote. Any person causing a disturbance or disruption may be prohibited from entering, or
44 may be removed from, the polling place but such action shall not be used to deny a
45 registered voter their opportunity to vote.

1
2 **Sec. 161-13. - Election officials.**

3 (a) The board of elections shall appoint election judges, election clerks, door marshals, and
4 alternates for each such position, to serve in the polling places.
5

6 (b) Qualifications. In order to serve as an election official, individuals must:

- 7 (1) Be enrolled members of the Eastern Band of Cherokee Indians; and
- 8 (2) Be at least 18 years of age by the date of the election; and
- 9 (3) Be able to read and write the English language; and
- 10 (4) Be a registered voter with the Tribal Election Board; and
- 11 (5) Not be a candidate and work any poll, nor immediately related to any candidate
12 within the township of service, nor have been an active member of any candidate's
13 campaign during that election year, and shall not express support for any candidate
14 during the term of appointment as an election official; and
- 15 (6) Must be willing to serve in any polling place; and
- 16 (7) Attend and complete the mandatory orientation training seminar provided by the
17 Board of Elections prior to each election.

18 (c) Election judges.

- 19 (1) Two (2) Election Judges shall be appointed by the Board of Elections for each
20 polling place no later than thirty (30) days prior to all elections, one (1) of whom
21 shall be designated by the Board of Elections as Chief Election Judge.
- 22 (2) The Chief Election Judge shall be responsible for the overall conduct of the election
23 at the polling place and ensuring the voting process is conducted in accordance with
24 law.
- 25 (3) The duties of the Chief Election Judge shall include: (a) obtaining the ballot box,
26 tally sheets, and the registration books from the Board of Elections on the day of the
27 election and for returning them to the Board at the close of each election day; (b)
28 confirming the registration of individual voters; and (c) ensuring that election
29 officials assist individual voters who seek assistance marking their ballot.
30
- 31 (4) Election Judges shall work with the Election Clerks to reconcile the ballot totals with
32 the ballot tabulator receipts in their respective polling place.
33
- 34 (5) Election Judges shall certify the election count totals for each candidate by signing
35 the tally sheets and by signing a separate statement under oath confirming the results
36 of the election in their polling place on election day.
37

38 (c) Election Clerks.

- 39 (1) One (1) Election Clerk shall be appointed by the Board of Elections for each polling
40 place no later than thirty (30) days prior to all elections; provided, however, that two
41 (2) Election Clerks shall be appointed by the Board for each of the Birdtown and
42 Wolfetown (not Big-Y) polling places due to the larger number of registered voters
43 in those townships.
- 44 (2) The Election Clerk duties shall include: (a) assisting the Election Judges in
45 confirming the registration of individual voters; (b) recording the name of each voter
46 casting a ballot; (c) assisting individual voters who seek assistance in marking

1 ballots; and (d) assisting Election Judges in counting the votes after the polls are
2 closed.

3
4 (d) Door Marshals.

5 (1) One Door Marshal shall be appointed by the Board of Elections for each polling
6 place no later than thirty (30) days prior to all elections.

7 (2) The Door Marshal shall control the entrance of voters into the polling place to
8 ensure that there is an orderly flow of voters in and out of the polling place and
9 control the entrance of voters so that the election process shall not be
10 compromised.

11 (3) The Door Marshal shall ensure that no candidate, their immediate family, or their
12 campaign workers are within 100 yards of the polling place except to cast their
13 own ballots.

14 (4) The Door Marshal shall ensure that there is no loitering, electioneering,
15 intimidation of voters, or use of alcoholic beverages in and around the polling
16 place.

17
18 (e) Appointment of Alternatives to Serve at Polling Place.

19 (1) At least one alternate shall be appointed by the Board of Elections for each polling
20 place no later than 30 days prior to all elections, for each position for which the
21 Board of Elections believes an alternate is necessary or helpful.

22 (2) If the primary appointee is unable to fill his or her duties, the alternate shall be
23 empowered to perform all the duties enumerated above applicable to the position
24 for which he or she is an alternate.

25 (3) The Board of Elections shall provide training to appointed alternates
26 commensurate with the position in which the alternates are requested to serve.
27

28 (f) Certification.

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

31 (2) All election officials shall before entering on their duties of office take the
32 following oath before a member of the Board of Election: "I [name], having been
33 duly appointed to serve as [title] for the [community] Township in the [year] [type
34 of election] Election, do solemnly swear (or affirm) that I will faithfully perform
35 the duties of that office to the best of my abilities and that I shall serve in a fair
36 and impartial manner without fear or favor to anyone; that I shall comply with
37 Tribal law and shall not engage in or aid, abet or encourage anyone else to engage
38 in any fraud or deceit that would compromise the integrity of my position, the
39 election process or the accuracy of the election results. I make this oath under
40 penalty of perjury." All oaths shall be signed and dated by the respective election
41 officials; such signed oaths shall also include the printed names of the election
42 officials.

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

46 (g) Early voting.

- 1 (1) Early voting shall be conducted pursuant to Sec. 161-15.1.
- 2 (2) Early voting shall be conducted at locations to be determined by Board of
- 3 Elections.
- 4 (3) The Board of Elections shall choose election officials for early voting no later than
- 5 thirty (30) days before the date set for early voting.
- 6 (4) Election officials for early voting shall be certified and trained before the date set
- 7 for voting.
- 8

9 **Sec. 161-14. - Voting procedures.**

- 10
- 11 (a) When a Tribal member appears at the polling place to vote, the enrolled member shall
- 12 present an Election Judge with a Tribal, state or federal government issued photo I.D. to
- 13 verify identification, an Election Judge shall then determine if the name appears on the
- 14 official list of registered voters furnished by the Board of Elections. If there is any
- 15 question regarding a voter's eligibility, the Chief Election Judge shall call the Board of
- 16 Elections to verify. If after confirmation with the Board of Elections, the voter is
- 17 determined not to be eligible or registered, he/she shall not be allowed to vote. If the
- 18 name appears on the official list of registered voters, the clerk shall then insure that the
- 19 voter's name does not also appear on the list of absentee voters and shall record the
- 20 voter's name in a record book maintained for the purpose of documenting such fact. A
- 21 judge shall then give the voter an unmarked ballot.
- 22 (b) The voter shall mark the ballot in a designated private area within the polling place. The
- 23 voter shall then place the marked ballot into the ballot box and leave the polling place.
- 24 (c) If a voter seeks assistance in marking the ballot, the Election Clerk or other Election
- 25 official shall mark the ballot as requested by the voter and shall have two election
- 26 officials witness the marking. An official Affidavit of Assistance form must be signed
- 27 by the voter prior to the Election Clerk or other Election Official marking the ballot and
- 28 noted on that form the signatures of all election staff who in the administration or
- 29 witnessing of the casting of the ballot. The two election officials shall witness the
- 30 marking of the ballot and then immediately deposit the ballot in the ballot box.
- 31 (d) The Board of Elections shall not provide absentee ballots for run-off or special elections.
- 32 (e) If any elderly, handicapped, or infirm person is unable to enter the polling place, the
- 33 person shall be permitted to vote in a motorized vehicle at the polling place. Such
- 34 elderly, handicapped, or infirm voters shall be permitted to vote by having two (2) of
- 35 the election officials personally deliver the ballot to such a voter. An official Affidavit
- 36 of Assistance form must be signed by the voter prior to the voter marking the ballot and
- 37 be noted on that form the signatures of all election staff who assisted in the
- 38 administration or witnessing of the casting of the ballot. The two election officials shall
- 39 witness the marking of the ballot by the voter and then immediately return the ballot to
- 40 the polling place and deposit the ballot in the ballot box.
- 41 (f) After the polls are opened, under no circumstances shall a ballot box be opened until the
- 42 polls are closed. If manual ballots are used, key operated locks shall be installed on the
- 43 ballot boxes with the keys under the sole control of the Board of Elections. The keys
- 44 shall be delivered to the Chief Election Judge for the Board of Elections only at the
- 45 closing of the polls. If electronic tabulators are used, the Board of Elections shall use
- 46 equivalent procedures consistent with the technical requirements of the ballot tabulators

1 to ensure that no unauthorized ballots are inserted in the ballot box or counted in the
2 election.

- 3 (g) Any voting irregularities observed by the Election Officials must be reported by the
4 Chief Election Judge to the Board of Elections when they occur, but no later than the
5 time when the ballot boxes are returned to the Board of Elections. The Chief Election
6 Judge ~~must~~ shall immediately submit a report of the alleged irregularities in writing
7 stating specifically and in detail what the alleged irregularity is. Any alleged
8 irregularities and the manner in which they were handled shall be communicated to
9 each candidate that submits a Protest of Election Irregularity to the Board of Elections
10 within the protest period.
11

12 **Sec. 161-15. - Absentee voting.**

- 13 (a) The Board of Elections shall prepare and administer a separate ballot for absentee voting.
14 The absentee ballot shall be identical to the regular ballot except that it shall be printed on
15 paper of a different color.
- 16 (b) Only enrolled members who are registered to vote and meet one of the following
17 requirements may vote by mail or in person by absentee ballot:
- 18 (1) Tribal members serving on active military duty who are unable to return to Cherokee to
19 cast their votes;
 - 20 (2) Tribal members employed with the federal government assigned to duty other than the
21 Cherokee Indian Reservation who are unable to return to Cherokee to cast their votes;
 - 22 (3) Tribal members enrolled in institutions of higher education that are unable to return to
23 Cherokee to cast their votes;
 - 24 (4) Tribal members who are employees of the Tribe and are required to be away from
25 Cherokee for training or for reasons required by their employment on the date of election
26 who are unable to return to Cherokee to cast their votes;
 - 27 (5) Tribal members who: because of illness are in a hospital, nursing home, or other treatment
28 facility and who because of their physical condition and course of treatment are unable
29 to return to Cherokee to cast their votes; or
 - 30 (6) Tribal members who physically reside on Cherokee trust lands but who will be absent
31 from Cherokee on Election Day for business or personal reasons and are unable to return
32 to Cherokee to cast their votes.
- 33 (c) Person desiring to vote by absentee ballot must apply for such a ballot within the following
34 time periods: Beginning on April 1 and ending on May 15 for the primary election and
35 beginning on July 1 and ending on August 15 for the general election, for requests made by
36 phone, electronic mail, or US mail. Requests may be made in person in the Board of Elections
37 Office by 4:00 p.m. the Friday before said election. The Board of Elections may require
38 appropriate documentation to establish compliance of Subsection 161-15(b) of this Section be
39 submitted with the application.
- 40 (d) Absentee ballots shall be given or mailed to the prospective voter by the Board of Elections
41 beginning on May 1 for the Primary Election and on August 1 for the General Election,

1 together with instructions and an official self-addressed return envelope. Absentee ballots
2 must be witnessed, returned to and received by the Board of Elections on or before 4:00 p.m.
3 on the Friday before the Primary Election, and on or before 4:00 p.m. on the Friday before the
4 General Election. All absentee ballots shall be counted by the Board of Elections on Election
5 Day.

6 (e) The Board of Elections shall prepare a list of all absentee ballots returned to the Board of
7 Elections and shall make such a list available to the Chief Election Judge in each polling place
8 on the day of election. Election officials shall not permit any person to cast a ballot whose
9 name appears on the absentee voters list.

10 (f) The Board of Elections shall print on the face of each application for absentee ballot the
11 following legend with the blank space in the legend to be completed:

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

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

19 "I, (Print Full Name), do certify, under penalty of perjury, that I am a voter in the
20 _____ Township of the Eastern Band of Cherokee Indians, duly registered in
21 accordance with the Cherokee Code. I understand it is a violation of Tribal law to sign
22 this certificate knowing that what I am certifying is not true.

23 _____

24 Signature of Voter

25 Date: _____

26 Witness: _____

27 Address: _____

28 Witness: _____

29 Address: _____

30 (h) No later than May 1 for a primary election and August 1 for a general election, the Board of
31 Elections shall print a sufficient number of envelopes in which persons casting absentee
32 ballots may transmit their marked ballots to the Board of Elections. Each return envelope shall
33 be printed in accordance with the following instructions:

34 (1) On one side shall be printed an identified number of the voter and the following
35 statement which shall be certified by one member of the Board of Elections: "Certification
36 of Election Board Member: The undersigned Election Board Member certifies that
37 _____ is a registered and qualified voter of _____ Township and has
38 made proper request to vote under the laws of the Eastern Band of Cherokee Indians.

1 _____

2 Chairman/Member

3 Date: _____

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

6 "Certification of Absentee Voter: I, (Print Full Name), do certify, under penalty of
7 perjury, that I am registered voter in _____ Township of the Eastern Band of
8 Cherokee Indians. I further certify that I requested an absentee ballot and that I marked
9 the ballot enclosed herein, or that it was marked for me in my presence and according to
10 my instructions. I understand it is a violation of Tribal law to sign this certificate knowing
11 that what I am certifying is not true.

12 Signature of Voter: _____

13 Date: _____

14 Witness: _____

15 Address: _____

16 Witness: _____

17 Address: _____

18 (i) On or before May 1 for a primary election and August 1 for a general election, the Board of
19 Elections shall prepare and print a sufficient number of instruction sheets on how voters are
20 to prepare absentee ballots and return them to the Board of Elections. The instruction sheet
21 shall state the date on which ballots must be received by the Board of Elections to be counted.

22 (j) The Board of Elections shall use the following procedures to maintain the Absentee Logs:

23 (1) Record the absentee applications and ballots issued.

24 a. Name of the voter requesting an absentee ballot.

25 b. Number assigned to voters ballot when issued.

26 c. The township in which applicant is registered.

27 d. Address to which the ballot is mailed.

28 e. The date the request for ballot was received.

29 (2) When the Board of Elections receives and approves an application for absentee ballots,
30 it shall promptly issue and transmit the ballot to the voter only, not to a relative, in
31 accordance with the following instructions:

32 a. On a detachable tab, the Board of Elections shall have printed the words "Absentee
33 Ballot No. _____" and insert in the blank space the number assigned to the
34 absentee voter. The Board shall not write, type, or print any other matter upon the
35 ballot.

1 b. The Board shall detach the numbered tab, fold and place the ballot in a return
2 envelope and write or type in the appropriate blanks thereon the absentee voters
3 name, his/her ballot number and the designation of the township in which the voter
4 is registered. The Board of Elections shall leave the return envelope holding the
5 ballots unsealed.

6 c. The Board of Elections shall then place the unsealed return envelope holding the
7 ballot, together with printed instructions for voting and returning the ballot, in an
8 envelope addressed to the voter at the address stated in his/her request, seal the
9 envelope, and mail it at the expense of the Board of Elections. Alternatively, a voter
10 may personally pick up the ballot at the Board of Elections office.

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

14
15 **Sec. 161-15.1. - Early voting.**

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

17 (b) Early voting opens at 9:00 a.m. on the second Monday of May and ends the fourth Monday
18 of May before the primary election and the second Monday of August and ends the fourth
19 Monday of August before the general election and closes at 4:00 p.m. on regular business days
20 except for the last Saturday prior to the closing of early voting; the last Saturday hours shall
21 be 9:00 a.m. until 4:00 p.m. The location for early voting shall be determined by the Board of
22 Elections and shall be located on Tribal trust lands. The Board of Elections shall not extend
23 the dates and times for early voting for any reason.

24 (c) All registered voters who desire to vote early shall follow the voting procedures set forth in
25 Section 161-14.

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

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

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

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

39

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

- 2 (a) All protests must be submitted to the Board of Elections in writing and on forms provided by
3 the Election Board or, if not on forms provided by Board, then in a typed or legible writing.
4 Each protest shall contain sufficient detail to give the Board adequate notice of the alleged
5 irregularity being protested. All protests shall, at a minimum, contain the following
6 information: (1) the name, mailing address, physical address, telephone number and email
7 address (if one is available) of the protester; (2) the dates and approximate times of the act(s)
8 being protested; (3) a description of the subject of the protest; (4) the name, mailing address,
9 telephone number and email address (if one is available) of all witnesses known to the
10 protester; and (5) copies of all supporting records, photos and other documentary evidence in
11 the possession or control of the protester that the protester wants the Board to consider. All
12 protests must include a sworn statement signed by the protester, before a notary, that the
13 allegations presented in the protest are true or that the protester, upon information and belief,
14 believes them to be true. All hearings for election irregularities and protests shall be set
15 according to this Section.
16
- 17 (b) The person filing the protest shall pay the protest filing fee expressed by the Board in its
18 schedule of fees.
- 19 (c) Except as otherwise provided in this section, a protest of irregularities in the conduct of an
20 election must be submitted to the Board of Elections no later than five (5) business days after
21 the close of the polls and, if the Board orders a hearing to hear the protest, the hearing shall
22 be set by the Board within five (5) business days after the receipt of the written protest.
23 Pursuant to C.C. Sec. 161-19(g), the Board has authority to not order a hearing in certain
24 situations. The parties to the protest shall be allowed adequate time to prepare their case and
25 be allowed to call witnesses and subpoena documents, not to exceed ten (10) business days.
26 It is imperative to proceed in a timely manner; therefore, the normal rules of civil procedure
27 are not applicable. However, the Board of Elections shall give the parties reasonable
28 consideration and opportunity to prepare their case and may extend any deadlines or hearing
29 to assure that it has all the facts in order to make a valid final decision. All persons that the
30 protest may directly affect shall be notified of the scheduled hearing by the Election Board.
31 Notice shall be provided by any means authorized in C.C. § 161-29 (“Service of
32 Communications by the Board of Elections”).
- 33 (d) Any person filing a protest for election irregularities under this section must establish during
34 a hearing in front of the Board of Elections that the alleged irregularities unfairly and
35 improperly or illegally affected the actual outcome of the election, and but for the irregularity,
36 the winning candidate would not have prevailed at the polls.
- 37 (e) All persons shall have the right to have an attorney or lay advocate represent them at the
38 hearing before the Board of Elections. Any attorney who represents a person at a hearing
39 before the Board of Elections shall comply with Tribal law governing the practice of law in
40 Cherokee.
- 41 (f) After all parties have had an opportunity to be heard and present evidence the Board of
42 Elections shall issue a final written decision. The decision shall be issued within five (5)
43 business days after the conclusion of the hearing. The written decision shall be sent to all

1 affected person(s) by means authorized in C.C. § 161-29 (“Service of Communications by the
2 Board of Elections

- 3 (g) The Board has the power to:
 - 4 (1) Find that the protest did not meet the requirements set forth in this Chapter and dismiss
5 the protest; or
 - 6 (2) Find that the protest did meet the requirements set forth in this Chapter and issue the
7 appropriate relief.
 - 8 (3) If the Board of Elections finds that the protester has met the burden expressed in
9 subsection (d) of this section, then the Board of Elections is authorized to issue relief in
10 the form of ordering a new election or a run-off election between two or more candidates
11 affected by the election irregularity. If it is shown by the evidence presented that a crime
12 may have been committed during the course of the election, the Board of Elections may
13 present evidence to the Tribal Prosecutors Office for possible criminal charges.
 - 14 (4) The Board of Elections shall use the same procedure set out in Section 161-7 of this
15 Chapter, if a new or run-off election is warranted.
 - 16 (5) The powers given to the Board of Elections in this subsection are in addition to, and are
17 a supplement to, the powers given to the Board in C.C. § 161-19.
- 18 (h) The Board of Elections shall issue a final, written decision. The decision is not required to
19 take any particular form or to formally express findings of facts and conclusions of law as
20 might be written in a court decision; provided, however, the final decision shall contain
21 sufficient information to enable the Court on appeal, if an appeal is filed, to make an
22 informed judgment as to facts considered by the Board of Elections in making its decision
23 so that the Court can determine whether the Board committed an error of law.
- 24 (i) No person shall be entitled to receive monetary damages or recover their legal or personal
25 expenses from the Board of Elections or the Tribe.

26
27 **Sec. 161-16.1. - Certification of election results.**

- 28
- 29 (a) At the meeting of Tribal Council on the first Monday of October following a general election,
30 or after the first meeting of the Tribal Council following a special or primary election, the
31 Board of Elections shall certify the election to the Tribal Council.
- 32 (b) If a formal election protest is filed with and not yet resolved by the Board of Elections
33 pursuant to Section 161-16, the Board of Elections shall only certify the results of the seats or
34 offices not in dispute with the Council by Annual Council.

35
36
37 **ARTICLE III. - BOARD OF ELECTIONS**

1 **Sec. 161-17. - Board established.**

- 2 (a) The Board of Elections shall be composed of six (6) members, one from each township. Each
3 member of the Board shall be appointed by the Tribal Council effective September 1 in non-
4 election years, with the term of each member to run for four years from that date. The terms
5 shall be staggered with one representative appointed from Painttown, Wolfetown/Big Y,
6 Snowbird/Cherokee County in 2012 and each four years thereafter; and one representative
7 appointed from Big Cove, Birdtown and Yellowhill in 2014 and each four years thereafter.
- 8 (b) In order to serve as a member of the Board of Elections, a candidate must:
- 9 (1) Be an enrolled member of the Eastern Band of Cherokee Indians; and
- 10 (2) Be at least 18 years of age on the date of appointment; and
- 11 (3) Reside on Cherokee Trust Lands for a least one year prior to the date of appointment
12 and continue to reside on the Cherokee Trust Land for the duration of their term; and
- 13 (4) Have received a high school diploma or equivalent prior to the date of appointment.
- 14 (c) No Election Board member shall be a candidate for any Tribal office or actively support any
15 candidate for Tribal office during the term for which the member is appointed to the Board.
16 For purposes of this section, “actively support” means contributing money to, campaigning
17 for, or openly declaring support for any candidate.
- 18 (d) Every person who is a member of the Board of Elections shall take the same oath required of
19 election officials in C.C. § 161-13.

20

21 **Sec. 161-18. – Vacancies on election board.**

22

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

26

27 **Sec. 161-19. – Powers and duties of the election board.**

- 28 (a) The Board shall have the power to do all things necessary and proper, consistent with this
29 Chapter, to effectuate the intent of this Chapter. Those powers include, but are not limited to,
30 the following: to make final decisions on candidate eligibility, proper voter and candidate
31 registrations and eligibility, absentee voter eligibility, and protest decisions; to provide for the
32 proper conduct of elections; to hire and/or contract with firms and individuals to assist the
33 Board in the conduct of its business; to resist, report and take action against illegal or unethical
34 conduct affecting Tribal elections; to set and impose reasonable filing fees, protest fees and
35 other fees; to provide for the imposition of civil fines and other consequences for unlawful
36 conduct; and to make administrative rules pursuant to Cherokee Code Chapter 150
37 (Administrative Procedure Act). The Board, in carrying out its decision, shall have the

- 1 authority to subpoena documents and witnesses and shall have quasi-judicial powers to make
2 the final rulings on all election protests properly before it.
- 3 (b) The Board shall appoint all election officials necessary for the proper supervision of Tribal
4 elections as set forth in Article II of this Chapter.
- 5 (c) The Board shall provide to the election officials at each polling place a list of registered voters
6 for their respective polling place.
- 7 (d) The Board shall be responsible for the preparation of the official ballots to be used in each of
8 the polling places for all Tribal elections and shall furnish such ballots to the elections officials
9 in each polling place.
- 10 (e) The Board shall be responsible for certifying each applicant as eligible or ineligible, notifying
11 each applicant of its decision, and holding appeal hearings as set forth in this Chapter. The
12 Board shall make public the names of the candidates certified as eligible on the ballot for each
13 Tribal office no later than May 10 of an election year for the primary election and August 10
14 of an election year for the general election,
- 15 (f) The Board, together with the election officials for each polling place shall conduct all ballot
16 counts after the closing of the polls. The Board shall thereafter make public unofficial reports
17 of election returns. The Board shall certify elections as specified in Section 161-16.1.
- 18 (g) The Board shall investigate irregularities and nonperformance of duty and violation of Tribal
19 election rules and regulations by election officials or other persons. The Board may hold
20 hearings in the course of such investigations in accordance with Section 161-16, but is not
21 required to hold a hearing on any particular matter if the Board determines that it can render
22 an informed decision based on the written protest and supporting materials provided by the
23 parties or the Board, including information obtained by the Board through its own independent
24 research and investigation.
- 25 (h) The Board shall have access to all ballot boxes and their contents, all voting machines and
26 their contents, all registration records, and all necessary enrollment records in the Tribal
27 Enrollment Office to carry out its duties under this Chapter. The Board of Elections is
28 authorized to utilize all resources available to properly document a voter's residence for
29 registration purposes.
- 30 (i) The Board shall conduct an instructional meeting for township officials at a location to be
31 determined by the Board and such meeting shall be held no later than the week preceding each
32 election. All election officials shall receive training and instruction in the proper execution of
33 their duties before the beginning of early voting, if possible. All election officials shall receive
34 a copy of a written training handbook detailing the election day process.
- 35 (j) The Board shall keep a tape recording and written record of all Board meetings at which
36 evidence is received or a vote taken regarding a protest filed with the Board.
- 37 (k) The Board shall prepare and submit to the Tribal Council a budget request, which shall include
38 all anticipated Tribal election expenses for the coming fiscal year. The request should include
39 payment of all persons working with elections and all known registration costs.
- 40 (l) The Board shall have the authority to fully implement and carry out all other duties set forth
41 in this Chapter.

1 (m) Whenever the Board of Elections votes on a matter, the decision receiving the majority of
2 votes shall prevail. If a vote taken on a matter results in a tie among the members of the
3 Board, the matter fails.
4

5 **ARTICLE IV. - GENERAL PROVISIONS**

6

7 **Sec. 161-20. - Definitions.**

8

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

11
12 *Business day* shall mean any day of the week in which Tribal offices are open for regular
13 business in whole or in part. This does not include Saturday, Sunday, or any other Tribal or
14 federal holiday or Tribal administrative leave day in which Tribal offices are closed for the
15 whole day.
16

17 *Calendar day* shall mean any day of the week.
18

19 *Candidate* shall mean the person running for elective office and includes his or her agent.
20 Candidate also includes any person or entity who files a ballot measure including, but not be
21 limited to, initiative questions, referendum questions and amendments to the Tribal Charter and
22 Governing Document or to the adopted constitution of the Tribe if a constitution is adopted.
23

24 *Election period* shall mean the period beginning October 1 and ending on September 30 of
25 each year of a regularly scheduled primary and general election for Tribal Council, Principal Chief
26 or Vice Chief. In a special election, the election period shall mean the period beginning five (5)
27 months immediately before the date set for the special election called to fill a vacancy in a Tribal
28 office and extending five (5) months beyond the date of the special election.

29 *Election Year* shall mean October 1 through September 30 of the year of a regularly scheduled
30 general election for Tribal Council or Principal Chief or Vice Chief are held.

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

34 *Immediately related to or Immediate family* shall mean a husband, wife, father, mother,
35 brother, sister, daughter, son, aunt, uncle, grandfather, grandmother, niece, or nephew, or
36 grandchild.

37 *Polling Place* shall mean the actual physical location where votes are cast during an election.
38 The Board of Elections shall authorize and designate one polling place in each voting township,
39 except for the Wolfetown Township, which shall have two polling places – one in Wolfetown and
40 one in Big-Y.

41
42 *Run-off election* shall mean a second election conducted after a primary or general election
43 usually involving a subset of the candidates who participated the original election and is held for

1 the following purposes: (1) to resolve a tie between candidates who received the same number of
2 votes in the original election; or (2) to re-do the election in whole or in part because the Board of
3 Elections has determined, upon its own independent research and investigation prompted by a
4 properly filed protest, that irregularities in the conduct of the election affected the actual outcome
5 of the election or rendered the results contrary to the Tribal Charter or this Chapter 161, or the
6 Board of Elections has determined that the results are unreliable by clear and convincing
7 evidence.
8

9 *Township* shall mean the six (6) established communities on the Qualla Boundary recognized
10 by the Tribal Council and in the Charter and Governing Document as having Tribal Council
11 representatives: Big Cove (including Tow String), BirdTown (including 3200 Acre Tract),
12 PaintTown, YellowHill, WolfeTown (including Big Y), SnowBird, and Cherokee County trust
13 lands combined.

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

16 *Tribe* is used inclusively and shall mean the government of the Eastern Band of Cherokee
17 Indians and all of its boards, commissions, entities and enterprises.
18

19 *Vacancy* shall mean that an elected official has resigned or died, or has been impeached or
20 removed, or has been removed after having been found to be disabled to the extent that he or she
21 is unable to discharge the powers and duties of the office during his or her term of office.
22

23 **Sec. 161-21. - Prosecution.**
24

25 Any violation of this Chapter that may constitute commission of crime shall be referred by
26 the Board of Elections to the Tribal prosecutor for review and potential prosecution in the
27 Cherokee Court or in federal court depending on the nature and extent of the crime

28 Any person who, in any official proceeding of the Board of Elections or in any official
29 document submitted to the Board or submitted to another entity or person as required in this
30 Chapter, makes a false statement under oath or affirmation, or who swears or affirms the truth of
31 a statement previously made when the statement is material and the person believes the statement
32 not to be true, shall be subject to prosecution under C.C. Chapter 14, Article XII (Perjury and
33 Obstructing Justice).
34
35
36
37

38 **Sec. 161-22. - Effective date; amendment; severability; weekends.**
39

- 40 (a) This Chapter and amendments to it shall be effective upon ratification by the Principal
41 Chief.
42 (b) The provisions of this Chapter that established election requirements or procedures
43 shall not be amended during an election year as defined in Section 161-20, except as
44 provided in Section 161-25.

- 1 (c) If any provisions of this Chapter are found to be invalid because it is inconsistent with
2 another law, then the inconsistent portion shall be reviewed and amended until all
3 conflicts are resolved. All other provisions of this Chapter shall remain in full force and
4 effect.
- 5 (d) If the deadline for any action required under this Chapter falls on a weekend or holiday,
6 then the deadline is extended until the next business day.

7
8 **Sec. 161-23. – Appellate review.**

9
10 The standard of review for an appeal of a final decision by the Board of Elections shall be for
11 error of law.

12
13 **ARTICLE V. - MISCELLANEOUS**

14 **Sec. 161-24. – Unlawful campaign practices.**

15
16 In addition to other prohibitions in this Chapter, the following acts are unlawful:

- 17
18 (1) Campaigning within 100 yards of a polling place. No person shall campaign, attempt to
19 persuade voters, place campaign literature or signs, or otherwise attempt to influence the
20 outcome of a Tribal election within 100 yards of a polling place. This restriction shall be
21 applied in concert with the 100 yard restrictions provided in C.C. § 161-12 and § 161-
22 13(d).
- 23
24 (2) Buying or selling votes. No person, corporation, partnership, or any other legal entity
25 shall attempt to influence a person or obtain his or her vote, or obtain his or her signature
26 on a petition, by making a direct and specific offer to that individual, or to another person
27 on behalf of that individual, of money, goods or services. This subsection is not intended
28 to limit the making of "campaign promises", i.e., generalized suggestions that people will
29 benefit from policies associated with particular candidates or particular issues on the
30 ballot.
- 31
32 (3) Tampering with ballots. No person shall tamper with, alter, destroy, deface or mutilate
33 ballots that have been cast in an election, or perform any such acts in connection with an
34 official record of ballots cast in an election, except as authorized by law.
- 35
36 (4) Giving false information in registering or voting. No person shall knowingly or willfully
37 give false information as to his name, address or period of residence in the township for
38 the purpose of establishing his eligibility to register or to vote, or conspire with another
39 individual for the purpose of encouraging his false registration to vote or illegal voting, or
40 pay or offer to pay or accept payment for registering to vote or for voting.
- 41
42 (5) Falsification or concealment of material facts. It shall be unlawful for any person to
43 knowingly and willfully falsify or conceal a material fact, or make any false, fictitious, or

1 fraudulent statement or representation, or make or use any false writing or document
2 knowing the same to contain any false, fictitious, or fraudulent statement or entry.

3
4 (6) No intimidation. No person, organization, association, corporation or other entity shall
5 use or threaten to use physical force, job discrimination, employment reprisal,
6 employment reward, or financial reprisal or financial reward, to solicit or accept money
7 or any other thing of value for the purpose of influencing the result of an election or to
8 assist a candidate or office holder.

9
10 (7) Voting more than once in an election. No person shall vote more than once in an
11 election, except as provided by law.

12
13 (8) Marking the ballot of another person. No person shall mark the ballot of another voter
14 without that voter's express approval. No person shall execute the signature of another
15 voter on any document submitted to the Board of Elections without that voter's express
16 approval.

17
18 **Sec. 161-25. - Amendment to this Chapter.**

19 No provisions of this Chapter 161, otherwise known as the Election Ordinance, may be
20 amended from October 1 to September 30 of any Election year in which regularly scheduled
21 general elections for Tribal Council or Principal Chief or Vice Chief are held. This restriction
22 does not apply to amendments that are necessary to comply with decisions of the Cherokee
23 Tribal Court, or to amendments that are procedural or administrative that do not alter the
24 substantive requirements for the actions or persons expressed in this Chapter.

25 **Sec. 161-26. – Board of Elections office.**

26 (a) The Board of Elections shall have an office or offices that are secured so that access to
27 the offices is limited to authorized persons only.

28 (b) The Board of Elections offices shall have working security cameras that shall record all
29 persons coming and going from the offices during an election period, and to record the
30 handling and securing of all ballots, and to provide for the security of all ballots.

31 (c) Keys and codes to Board of Election offices shall only be provided to authorized
32 personnel. All access to Election Board offices shall be logged remotely, providing the
33 ability to review who has been in and out of the offices.

34
35 **Sec. 161-27. – Securing and logging ballots.**

36
37 (a) All ballots shall be secured in a locked safe or cabinet with access limited to
38 authorized personnel only. The Board of Elections shall maintain a log indicating

1 who accesses the ballots and the day, date and time (example: “Monday, 08/28/2017,
2 2:00 p.m.”) access was made.

3 (b) If bins or containers are used to store marked or unmarked ballots, the bins or
4 containers shall be sturdy enough to preclude reasonable attempts at unauthorized
5 access and shall have a secure locking system to safeguard sensitive data and to
6 prevent tampering, theft or destruction of documents.

7 (c) If security seals are used to securely lock bins or containers, the security seals shall be
8 secured in a locked cabinet with limited access controlled by the Board of Elections.
9 A log shall be maintained to monitor who has accessed the security seals, as well as
10 reason access to the seals was necessary. The log shall contain day, date and time
11 entries. Two signatures shall be noted on the log each time a bin or container is
12 opened, with one signature being that of a Board of Elections members.

13 (d) Security seals shall be uniform and pre-numbered sequentially.

14 (e) The Board of Elections shall log spoiled ballots.

15 **Sec. 161-28. – Poll Books.**

16
17 All poll books shall be reconciled and verified daily by two members of the Board of
18 Elections.

19
20 **Sec. 161-29. – Service of communications by the Board of Elections.**

21
22 Wherever in this Chapter the Board of Elections is required to serve an official notice,
23 fine or decision on a person, the Board may serve the official communication in any of the ways
24 expressed in this section. Regardless of the manner of service, the Board shall keep records
25 establishing that the communication was made, actually received by the intended recipient, and
26 when it was received. The following methods of service are acceptable:

27
28 (a) By requiring the recipient to personally appear at the Board of Elections office to
29 pick-up and sign for the document; or

30
31 (b) By mailing the document to the recipient by United States Postal Service certified
32 mail with return receipt requested, or by delivery by FedEx or United Parcel Service;
33 or

34
35 (c) By personal delivery by an officer of the Cherokee Indian Police Department with
36 proof or return of service to be provided by the officer to the Board. The Cherokee
37 Indian Police Department is hereby authorized and required, if requested by the
38 Board, to deliver such communications and provide proof or return of service to the
39 Board.
40

1 (d) Any other means agreed to by the recipient, such as by email or telephone call;
2 provided, however, that the Board shall preserve all such emails and shall keep
3 records of all such telephone calls with sufficient detail so the Board can show when
4 the communication was made, who received it and when it was received.
5

6 **Sec. 161-30. – Calculation of days.**
7

8 Unless a different meaning is clearly expressed, wherever in this Chapter a time period of
9 ten (10) days or less is expressed for the performance of an act (such as for filing a required
10 document, scheduling a hearing or providing notice of an event), those days shall mean business
11 days; and any time period greater than ten (10) days shall mean calendar days.
12

13 **Sec. 161-31. – Legal representation at hearings.**
14

15 Parties to hearings before the Board of Elections shall have the right to have an attorney or
16 lay advocate represent them at the hearing. Any attorney who represents a person at a hearing
17 before the Board shall comply with Tribal law governing the practice of law in Cherokee.
18

19 **Sec. 161-32. – Control of hearings.**
20

21 The Board of Elections shall have authority to control the conduct of hearings before the
22 Board. The Board may impose reasonable restrictions on the presence of parties, witnesses and
23 other persons, the sequestration of the same, the presentation of evidence and the duration of
24 hearings. Such control shall be exercised to provide a safe and orderly hearing and to minimize
25 disruption and delay.