

TABLED

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

Date: MAR 14 2019

ORDINANCE NO. 515 (2019)

Substitute

WHEREAS, Cherokee Code Sec. 92-17A imposes requirements for TERO certification of Cherokee stone masons; and

WHEREAS, the certification requirements, as currently stated, have created some confusion and Sec. 92-17A should be amended to remedy that confusion; and

WHEREAS, Cherokee Code Sec. 92-28B states that every contractor, except for TERO-certified contractors, that obtains a Tribal contract in excess of \$10,000.00 must pay a fee of 1.75% to TERO; and

WHEREAS, the fee will be passed on by the contractors to the Tribe, ultimately increasing the Tribe's budget unnecessarily; and

WHEREAS, imposing the fee is not fiscally responsible; and

WHEREAS, historically, and currently, TERO receives its funding from the Tribe's general fund through the Tribe's regular budgeting process, and this approach should be maintained, and to be consistent with that budgeting process, TERO should be part of the Tribe's Executive branch structure; and

WHEREAS, Cherokee Code Chapter 92 should be amended to delete the TERO fee and return TERO to the normal Tribal budgeting process in which it has historically and effectively participated.

NOW THEREFORE BE IT ORDAINED by the Eastern Band of Cherokee Indians, in Council assembled; at which a quorum is present, that Cherokee Code Chapter 92 shall be amended to read as follows:

Sec. 92-17A. - Certification of Cherokee stone masons and native stone providers.

(a) For certification as; a Cherokee stone mason, the stone mason must provide:

(1) An Eastern Band of Cherokee Indian enrollment card; and

(2) A portfolio of previous work showing skill of Cherokee stone masonry; and

1 (3) Pay a one-time certification fee of \$100.00, which shall be remitted to the Tribal general
2 fund, and no subsequent certification fee need be paid.

3 ~~(b) For certification, a native stone provider must show~~

4 ~~(1) Proof that stone supply originated directly from rock bars located on lands held in trust~~
5 ~~for the Eastern Band of Cherokee Indians;~~

6 ~~(2) Proof that adequate supplies of native stone can be supplied to meet scheduling~~
7 ~~requirements of the project in question;~~

8 ~~(3) Proof that the native stone is competitive in kind, quality and price when compared to~~
9 ~~stone from sources off the EBCI lands.~~

10 (c) Once certification is obtained as provided in this section, that certification shall be effective
11 for the lifetime of the stone mason who obtained it or until it is relinquished by the stone
12 mason or revoked for cause by the TERO Commission after notice and hearing.
13 Certifications are applicable only to the individual to whom they are issued and non-
14 transferable.

15
16
17 **Sec. 92-7. - Tribal Employment Rights Office.**
18

19 ~~(a) There is hereby created the Tribal Employment Rights Office (TERO). The TERO shall~~
20 ~~operate as an independent and autonomous entity under the direction of the TERO~~
21 ~~Commission. The TERO shall be part of the organizational structure of the Executive~~
22 ~~branch and its located on the Tribe's organizational chart shall be subject to review and~~
23 ~~approval by Tribal Council.~~

24 ~~(b) The purpose of the TERO is to conduct the day-to-day business of the Commission, as~~
25 ~~delegated by the Commission, and to administer the rules, regulations, procedures, guidelines~~
26 ~~and orders adopted by the Commission.~~

27 ~~(c) The Manager/Director of the TERO may obtain and expend funding from federal, state or~~
28 ~~other sources to carry out the purposes of the Commission, subject to approval by Tribal~~
29 ~~Council. The staff employed by TERO, including the Director/Manager shall be employees~~
30 ~~of the Tribe and shall be subject to the Tribe's personnel policy as have the benefits and~~
31 ~~protections of the personnel policy applicable to all Tribal employees, including procedures~~
32 ~~for corrective actions and access to Tribal benefits. In order to maintain a clear separation of~~
33 ~~duties, all staff serving TERO shall be separate from the administrative authority of the~~
34 ~~Principal Chief, the Executive Committee, and Tribal Council. It shall be the responsibility of~~
35 ~~the TERO Director/Manager, with approval of the TERO Commission to modify such Tribal~~
36 ~~personnel policies and procedures, as needed, in order for such policies and procedures to be~~
37 ~~effective for the personnel needs of TERO. The TERO Commission shall have exclusive~~
38 ~~supervisory responsibility over the Director/Manager, and the Director/Manager shall have~~
39 ~~supervisory and personnel responsibilities over all other TERO staff.~~

1 **Sec. 92-7A. - Budget.**
2

- 3 (a) TERO shall prepare a budget as a component program of the Executive branch department to
4 which it is assigned in the Tribe's organizational chart. The budget shall be subject for its
5 operations as necessary to pay salaries and other expenses, within the limit of funds available
6 to it, which is to be included in budget requests submitted annually to Tribal Council for
7 approval. Funding for the activities of the TERO Commission shall be proposed, reviewed
8 and approved as part of the overall TERO budget.
- 9 (b) ~~TERO shall utilize funds.~~ Funds obtained through vendor certification fees, regulatory fines,
10 and contract fees. Except as provided in subparagraph (c) below, any surplus remaining from
11 such fees or fines shall revert back be remitted to the Tribe's general fund at the end of a fiscal
12 year.
- 13 (c) TERO shall have the authority to establish, fund, and maintain capital/expansion reserve funds
14 for:
- 15 (1) Working capital in an amount recommended by independent auditors; and
16 (2) For such other purposes as are specifically authorized by Tribal Council.

17
18 **Sec. 92-7B. - Office administration.**
19

- 20 (a) ~~*Budget.* The TERO Commission shall establish a budget for the support and operations of~~
21 ~~the office during the budget year and shall manage its budget in coordination with the Tribe's~~
22 ~~financial management system. The TERO shall be supported by the Tribe's established system~~
23 ~~for payroll, procurement of capital assets, hiring assistance, drug testing and other~~
24 ~~administrative processes as may be requested by the Chairman in order to have the TERO~~
25 ~~function within existing administrative and support resources.~~
- 26 (b) *Director and staff.* The Director shall be responsible for the administration of the staff. The
27 Director shall work closely with the Commission to set goals, priorities and initiatives for the
28 organization. ~~The staff members are not Tribal employees subject to the Executive~~
29 ~~Committee's hiring and daily management.~~
- 30 (c) Application of the Tribe's personnel policy. It is the intent of the Commission that all hired
31 staff, including the Director, shall be employees of the Tribe and shall be subject to the Tribe's
32 personnel policy as applicable to all Tribal employees, including procedures for corrective
33 actions and access to employee benefits. ~~have the benefits and protections of the personnel~~
34 ~~policy shall have the benefits and protections of the personnel policy applicable to all Tribal~~
35 ~~employees, including procedures for corrective actions. In order to maintain a clear separation~~
36 ~~of duties and administration of the preference law, however, all staff serving the TERO shall~~
37 ~~be separate from the administrative authority of the Principal Chief and the Executive~~
38 ~~Committee. It shall be the responsibility of the Director, with the approval of the Chairman,~~
39 ~~to modify such Tribal personnel policies and procedures, as needed, in order for such policies~~
40 ~~and procedures to be effective for the personnel needs of the TERO. The Chairman shall have~~
41 ~~exclusive supervisory responsibility of the Director and the Director shall have supervisory~~
42 ~~and personnel responsibilities over all other TERO staff.~~

1 **Sec. 92-28B. - TERO fees budget.**

2 ~~An employee rights fee is necessary to raise revenue for the operation of the TERO. Every~~
3 ~~economic entity, with the exception of TERO-certified vendors, that obtains a Tribal contract~~
4 ~~where section 92-3 applies shall pay a fee of 1.75% for all contracts in excess of \$10,000.00.~~
5 TERO shall be funded as part of the Tribe's regular budgeting process with annual review and
6 approval by Tribal Council.

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

10
11
12

Submitted by David Wolfe, Yellowhill Tribal Council Representative