

**TABLED**

Cherokee Council House  
Cherokee, North Carolina

**FEB 06 2020**

Date

Ordinance No. 121 (2020)

WHEREAS, the Charter and Governing Document authorizes and empowers the Eastern Band of Cherokee Indians (EBCI) Tribal Council to adopt laws and regulations for the general government of the Tribe. Charter and Governing Document, sect. 23 (Sept. 5, 1995) *see also* C.C. §117-10.

WHEREAS, Tribal Council possesses the authority “to delegate its duties to committees formed from its membership...” C.C. § 117-10.

WHEREAS, there is a need to combine the duties of the Community Services Committee and the Cherokee Police Commission, and;

WHEREAS, replacing the Cherokee Police Commission with a new Law and Order Committee will save the EBCI approximately eight hundred forty thousand dollars (\$840,000) per year, and;

WHEREAS, the general public would like more accountability for the EBCI’s law enforcement departments.

NOW THEREFORE BE IT ORDAINED in Council assembled at which a quorum is present that the Tribal Council amends Cherokee Code § 117-36 and rescinds Cherokee Code Ch. 120, as follows in EXHIBIT A.

BE IT FURTHER ORDAINED the Ordinance provisions that amend or adopt new sections of the Cherokee Code shall be codified by the Department of Justice. The Department of Justice shall incorporate such amended provisions in the next codification of the Cherokee Code.

BE IT STILL FURTHER ORDAINED should any provision of this Ordinance be determined invalid by the Cherokee Supreme Court, or the Cherokee Court without appeal to the Cherokee Supreme Court, or any other court of competent jurisdiction, those portions of this Ordinance which are not determined invalid shall remain the law of the Eastern Band of Cherokee Indians

BE IT FINALLY ORDAINED that the prior C.C. §117-36, C.C. Ch. 120, Resolution No. 36 (1954) and Resolution No. 29 (1987) and any other resolution or ordinance in conflict are rescinded and that this ordinance shall become effective when ratified

Cherokee Code

Chapter 117 – TRIBAL GOVERNMENT

ARTICLE III. – BOARDS AND COMMITTEES

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**Sec. 117-36 – ~~Community Services Committee~~ Law and Order Committee.**

(a) ~~The Community Services Committee shall be composed of eight members, which shall include the Principal Chief, Vice Chief, and one Council member from each township. The six Council members shall be elected by the Tribal Council at each annual meeting of the Tribal Council held in October following the Tribal election, and shall hold office from the date of election until the following general election or until their successors shall be elected.~~

(b) ~~The Vice Chief shall serve as Chairman of the Committee and the Committee shall select a Vice Chairman from their membership. The Committee shall keep minutes of all meetings, which minutes shall be open to inspection at all times by members of the Tribal Council or officials of the Bureau of Indian Affairs.~~

(c) ~~No action shall be taken by the Committee without a quorum present, with a quorum constituting five members of the Committee. A majority of the members present at any meeting at which a quorum exists shall have authority to approve action in the name of the Committee. All expenditures of the Committee budget shall be approved by the Committee at a regularly scheduled meeting.~~

(d) ~~The budget as adopted by the Tribal Council shall be adhered to and no obligations shall be incurred in the name of the Tribe or the Committee contingent upon approval by the Tribal Council at some future session. The members of the Committee shall be financially responsible for any expenditures or obligations other than those in the budget.~~

(e) ~~The appointment of chief of police for the Cherokee Police Department shall be made in accordance with the usual hiring procedures currently used by the Tribe.~~

1           ~~The chief of police will be responsible for planning and carrying out an adequate~~  
2           ~~law and order program for the Cherokee Indian Reservation and shall report~~  
3           ~~directly to the Principal Chief. The police chief shall have authority over the law~~  
4           ~~and order program and, with the concurrence of the Principal Chief, shall select~~  
5           ~~qualified persons for the positions of police officers. Any corrective action~~  
6           ~~involving the police department shall follow the procedures outlined in the Tribe's~~  
7           ~~personnel manual. The number of persons employed by the police department~~  
8           ~~shall be determined by the funds available in the budget.~~

9                     ~~(1) "Law Enforcement Officer" shall be defined to include officers of~~  
10                    ~~the Cherokee Indian Police Department, Natural Resource~~  
11                    ~~Enforcement officers and police service dogs.~~

12           ~~(f) The Committee shall conduct meetings at such regular times as the Committee~~  
13           ~~may determine. The Chairman shall have authority to call meetings of the~~  
14           ~~Committee at such other times as he or she deems necessary. A special meeting~~  
15           ~~may be called at the request of any three members of the Committee by giving all~~  
16           ~~members five days' written notice of the time, place and purpose of such special~~  
17           ~~meeting. All Committee meetings called in accordance with these conditions shall~~  
18           ~~be considered as regular meetings for purposes of action taken or directed by the~~  
19           ~~Committee.~~

20           ~~(g) All prior resolutions concerning the Community Services Committee or which~~  
21           ~~conflict with the provisions of this Section are hereby rescinded to the extent they~~  
22           ~~are inconsistent with this Section including, but not limited to, Resolution No. 36~~  
23           ~~(1954) and Resolution No. 29 (1987) also codified at Section 117-9 in the~~  
24           ~~Cherokee Code.~~

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26           a. The Tribal Council establishes the Law and Order Committee.

27           b. The Law and Order Committee shall consist of six Tribal Council  
28           representatives, one from each township.

1 c. The Committee shall exercise oversight authority including but not limited to  
2 Cherokee Indian Police Department, Alcohol Law Enforcement, Natural  
3 Resources Enforcement, and Department of Corrections:

4 1. To coordinate, oversee, and regulate the Eastern Band of Cherokee  
5 Indians' (EBCI) the tribe's public safety services;

6 2. To improve the administration of EBCI's criminal justice by ensuring a  
7 system that is free from political influence and that is accountable and  
8 responsible to the EBCI.

9 3. To protect the rights and interest of the EBCI enrolled members by  
10 improving the quality and effectiveness of the tribe's public safety  
11 services.

12 4. To enhance the operations and coordination of all EBCI law enforcement  
13 departments in order to increase the availability, quality, and effectiveness  
14 of the EBCI public safety services.

15 5. To enable the EBCI to more effectively provide efficient public safety  
16 services.

17 6. To support effective cooperation and coordination between EBCI law  
18 enforcement agencies and that the various states and federal government  
19 law enforcement agencies.

20 3. To recommend to the Tribal Council the adoption of resolutions or  
21 ordinances designed to strengthen the Cherokee Code;

22 d. Powers. The Committee shall have the following authority and powers necessary  
23 and proper to carry to carry out the purpose set forth above:

24 1. To review and approve policy and procedures for all law enforcement  
25 divisions, departments and programs under the Committee's oversight  
26 authority and to amend or rescind such policy and procedures.

27 2. Review and approve all agreements negotiated by tribal law enforcement  
28 with other federal, state, regional, and local governmental agencies,  
29 subject to approval by Tribal Council.

- 1           3. To review and make recommendation to the Tribal Council proposed  
2           amendments to and enactments in the Cherokee Code.
- 3           4. To review, amend, recommend and submit the annual budget for programs  
4           under the Committee's oversight to the Tribal Council.
- 5           5. To review, recommend, and rescind current and additional Originating  
6           Router Identifier (ORI) for submission to the State.
- 7           5. To recommend to the Tribal Council the creation of any division or  
8           department intended to be under the Committee's oversight by adopting its  
9           policy and procedures; and to rescind that policy and procedures or  
10           existing policy and procedures for any division or department under the  
11           Committee's oversight.
- 12           6. To appoint the Cherokee Indian Police Department's Chief of Police. The  
13           appointment shall be made in accordance with the current Eastern Band of  
14           Cherokee Indians Personnel Policies and Procedures Art. 5, Selection,  
15           Appointment, and Separation. The chief of police shall be responsible for  
16           planning and carrying out an adequate law and order program for the  
17           Cherokee Indian Reservation and shall report directly to the Executive  
18           Committee. The police chief shall have authority over the law and order  
19           program and, with the concurrence of the Executive Committee, shall  
20           select qualified police officers. Any corrective action involving the police  
21           department shall follow the procedures outlined in the Eastern Band of  
22           Cherokee Indians Personnel Policies and Procedures Articles 13 and 14,  
23           Corrective Action Procedure and Appeals. Prior to implementation, the  
24           Committee shall approve all personnel recommendations. The number of  
25           persons employed by the police department shall be determined by the  
26           approved annual budget submitted to Tribal Council.
- 27           (1) "Law Enforcement Officer" shall be defined to include officers of  
28           the Cherokee Indian Police Department, Natural Resource  
29           Enforcement officers and police service dogs.
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1 e. Meetings. All regular meetings shall be held each month on the first and third  
2 Monday. The Chairman shall have authority to call Committee meetings when he  
3 or she deems necessary. All Committee meetings called shall be considered  
4 regular meetings for purposes of action taken or directed by the Committee.

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7 **Chapter 120 – ~~CHEROKEE POLICE COMMISSION~~ RESERVED FOR FUTURE USE**

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9 **~~Sec. 120-1. Establishment.~~**

10 This chapter shall incorporate a body to be known as the Cherokee Police Commission  
11 (CPC) into the Cherokee Code, of which its initial membership was approved per Resolution No.  
12 1012 (2009) and subsequently amended by Resolution No. 29 (2009).

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14 **~~Sec. 120-2. Purpose.~~**

15 The purpose of this chapter is to create an independent commission whose mission is to  
16 provide regulatory oversight of Tribal law enforcement and to act as the liaison between the  
17 community, law enforcement, and the Executive and Legislative branches of Tribal Government.

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19 **~~Sec. 120-3. Definitions.~~**

20 The following words, terms and phrases as used in this chapter, shall be defined as  
21 follows:

22 (a) ~~Commission~~ shall mean the Cherokee Police Commission (CPC).

23 (b) ~~Commissioner and/or member~~ shall mean an authorized member of the Cherokee  
24 Police Commission.

25 (c) ~~Chairman~~ shall mean the Chairperson of the Cherokee Police Commission.

26 (d) ~~Vice Chairman~~ shall mean the Vice-Chairperson of the Cherokee Police  
27 Commission.

28 (e) ~~Law Enforcement~~ shall mean an agency responsible for enforcing the laws of the  
29 Eastern Band of Cherokee Indians, including but not limited to: the Cherokee  
30

1 Police Department (CPD), the Alcohol Law Enforcement (ALE), the Natural  
2 Resources Enforcement Office (NREO) and Cherokee Animal Control (CAC).  
3 (f) ~~Law Enforcement Officer or Law Enforcement Official shall mean any authorized~~  
4 ~~personnel delegated authority to enforce the laws of the Eastern Band of Cherokee~~  
5 ~~Indians.~~

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7 **Sec. 120-4. ~~Commission membership.~~**

8 Nominations to serve on the Cherokee Police Commission are made by the Principal  
9 Chief. Tribal Council approves membership appointments and the Commission's annual work  
10 plan. The Commission shall consist of eight members, six of whom shall be members  
11 representing the six Tribal townships of the Eastern Band of Cherokee Indians, the other two  
12 representing one "at large" male and one "at large" female. Commissioners may be removed  
13 from office by the nominating authority for just cause, as recommended by a majority vote of the  
14 Police Commissioners.

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16 **Sec. 120-5. ~~Authority.~~**

17 The Cherokee Police Commission is hereby vested with the following authority:

- 18 (a) ~~Oversight of all Tribal Law Enforcement programs. The Chief of Police and other~~  
19 ~~Tribal Law Enforcement Managers shall manage the daily operations of their~~  
20 ~~respective program and shall implement the Commission's policies and goals; the~~  
21 ~~Chief of Police and other Tribal Law Enforcement Managers shall report to the~~  
22 ~~Commission.~~
- 23 (b) ~~Enact the overall policy, rules and regulations for the governance of Tribal Law~~  
24 ~~Enforcement and its personnel;~~
- 25 (c) ~~Prescribe penalties for violations of its rules and regulations;~~
- 26 (d) ~~Form an Internal Review Board to conduct investigations and hearings on~~  
27 ~~allegations of law enforcement misconduct;~~
- 28 (e) ~~Hear final appeals from Law Enforcement Officers for discipline imposed by their~~  
29 ~~respective Law Enforcement Program Manager, Chief of Police or the Internal~~  
30 ~~Review Board;~~

- 1           ~~(f) Review annual budgets prepared by Law Enforcement Program Managers and the~~  
2           ~~Chief of Police and make recommendations to the Principal Chief and Tribal~~  
3           ~~Council;~~
- 4           ~~(g) Review the qualifications for each rank and grade in the law enforcement field~~  
5           ~~and make recommendations as necessary;~~
- 6           ~~(h) Review use of all property and equipment used by or in connection with the~~  
7           ~~operation of law enforcement departments/programs;~~
- 8           ~~(i) Advise the Chief of Police and other Tribal Law Enforcement Managers on law~~  
9           ~~enforcement community relations;~~
- 10          ~~(j) Submit an annual report to the Principal Chief and Tribal Council;~~
- 11          ~~(k) All Commissioners shall have the authority to vote on issues coming before the~~  
12          ~~Commission;~~
- 13          ~~(l) To draft and administer by laws of the Cherokee Police Commission;~~
- 14          ~~(m) To share relevant information/perspectives from other community groups,~~  
15          ~~organizations and/or constituencies with the Commission;~~
- 16          ~~(n) To represent the Commission at public events and other organizational meetings;~~
- 17          ~~(o) Serve on temporary committees or task groups that address specific work plan~~  
18          ~~items;~~
- 19          ~~(p) Investigative subpoena power; and~~
- 20          ~~(q) Serve as an outreach entity for citizens to submit law enforcement~~  
21          ~~recommendations, complaints and/or commendations.~~

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23 **Sec. 120-6. Effective Date.**

24           ~~This chapter shall become effective upon ratification by the Principal Chief.~~

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