

TABLED

Cherokee Council House  
Cherokee, North Carolina  
FEB 06 2020

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Date

ORDINANCE NO. 123 (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, the EBCI Tribal Council constitutes the Eastern Band of Cherokee Indian's Legislative Branch of government. C.C. §117-10.

WHEREAS, in June 2016, the Eastern Band of Cherokee Indians added Cherokee Code chapter 114, Department of Justice and Attorney General. *See* Eastern Band of Cherokee Indians Tribal Council Ordinance No. 118 (2016).

WHEREAS, since the EBCI enacted Ordinance No. 118 (2016) situations arose which show the need for an amendment.

WHEREAS, "The primary source for all legal services for the EBCI is the Attorney General." C.C. §114-2(a).

WHEREAS, since the Attorney General represents the Tribal Council from time to time, Tribal Council needs a voice when the Executive Committee selects an Attorney General.

WHEREAS, Cherokee Code §114-1 needs to be amended.

NOW, THEREFORE, BE IT ORDAINED by the Eastern Band of Cherokee Indians in Council assembled, at which a quorum is present that the Eastern Band of Cherokee Indians Tribal Council amends the Cherokee Code ch. 114, as follows in EXHIBIT A.

BE IT FURTHER ORDAINED the provisions of the Ordinance which 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

**Cherokee Code**

**Chapter 114 – DEPARTMENT OF JUSTICE AND ATTORNEY GENERAL**

**Sec. 114-1. – Department of justice and attorney general.**

(a) There shall be an Eastern Band of Cherokee Indians Department of Justice, which shall be under the director and control of the Attorney General.

(b) The Attorney General shall be a lawyer duly licensed in the State of North Carolina and in the Cherokee Court, and shall serve as the Tribe’s chief legal counsel. The Executive Committee, as defined in the Charter and Governing Document sect. 4, shall recommend an Attorney General appointment to the Tribal. Tribal Council shall approve or not approve the appointment of the Attorney General. The appointment shall be effective upon Tribal Council’s approval, for a term concurrent with the Executive Committee’s term. The Tribal Council may remove the Attorney General upon a majority vote. The Attorney General shall be appointed by the Principal Chief and shall serve at the discretion of the Principal Chief.

(c) All lawyers employed within the Department of Justice, as licensed lawyers, shall abide by the Rules of Professional Conduct.

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 this ordinance shall become effective when ratified by the Principal Chief or Vice-Chief. Charter and Governing Document, sect. 12 (Oct. 8, 1986).

*Submitted by: Albert Rose, Birdtown Representative*