

TABLED

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA
Date: MAR 05 2020

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ORDINANCE NO. 148 (2020)

WHEREAS, Tribal leaders are frequently asked to authorize and fund a program, contract, project or other activity that has the potential to have a significant impact on the Tribal budget; and

WHEREAS, as stewards of the Tribe's finances and fiduciaries of the public trust, Tribal leaders need to be presented with accurate and relevant facts about the proposed expenditure so they can make decisions that are well-informed and consistent with the Tribe's financial priorities and strategic plan; and

WHEREAS, the Tribe does this, in part, in the annual budgeting process and by following the Fiscal Management Manual, but each year new funding requests are presented that were not contemplated when the budget was set; and

WHEREAS, after the annual budget is set Tribal Council holds a monthly "Budget Council" pursuant to C.C. § 117-30 (Monthly budget meetings) to review and act on budget related matters pending at that time; and

WHEREAS, C.C. § 117-46 (Financial accountability) and C.C. § 117-47 (Balanced budget act) each refer to a "Budget Committee", but the "Budget Committee" is not defined anywhere in the Cherokee Code or in the Tribe's Charter and Governing Document, and the committee is not active; and

WHEREAS, Tribal law should be amended to activate the Budget Committee and to charge it with reviewing legislation that has a potential to have a significant impact on the Tribe's annual budget, and longer-term financial and strategic plans, and to authorize the Committee to make recommendations to Tribal Council regarding such legislation before Tribal Council votes on it.

NOW THEREFORE BE IT ORDAINED by the Tribal Council of the Eastern Band of Cherokee Indians in Council assembled, at which a quorum is present, that C.C. § 117-30, C.C. § 117-46 and C.C. § 117-47 shall be amended to read as provided in the attached Exhibit A.

BE IT FURTHER ORDAINED that any ordinance or resolution that conflicts with this ordinance in its final approved form is hereby rescinded.

BE IT FINALLY ORDAINED these ordinance amendments shall become effective upon ratification by the Principal Chief and the Principal Chief shall carryout the intent.

Submitted by Richard G. Sneed, Principal Chief.

38 EXHIBIT A

39 **Sec. 117-30. - Monthly budget meetings Budget Council and Budget Committee.**

40 ~~After conducting such meetings as are necessary to review and approve the annual~~
41 ~~budget, the Tribal Council shall meet monthly, on the Tuesday before the regular~~
42 ~~monthly Council meeting, to review and act on all budget related matters submitted for~~
43 ~~that month. Budget matters that cannot be resolved at the Tuesday budget meeting may~~
44 ~~be tabled for action at the Thursday Tribal Council meeting.~~

45 **(a) Definitions.**

46 (1) "Budget Council" shall mean the Tribal Council meeting convened before the regular
47 Tribal Council meeting to review and act on budget-related matters that require the
48 approval of the Tribal Council.

49
50 (2) "Budget Committee" shall mean a committee of the Tribal Council consisting of the
51 following persons: Tribal Council Chairman, Tribal Council Vice-Chairman, Principal
52 Chief, Vice Chief, Secretary of Treasury, and two members of the Tribal Council selected
53 by resolution of the Tribal Council to serve.

54 **(b) Budget Council.**

55 (1) **Composition.** The Budget Council shall consist of the twelve (12) members of the
56 Tribal Council.

57 (2) **Authority.** The Budget Council shall have the full authority of the Tribal Council to
58 act on budget and financial matters of the Eastern Band of Cherokee Indians. Budget &
59 financial matters that cannot be resolved by the Budget Council may be tabled and
60 referred to a regular meeting of the Tribal Council.

61 (3) **Meetings.** The Budget Council shall meet on the Tuesday immediately preceding the
62 regularly scheduled monthly session of Tribal Council held on Thursday. Some variation
63 from this schedule is permitted as need requires.

64 (4) **Agenda.** The Budget Council shall have an agenda prepared for each of its meetings.
65 The agenda shall be set by the Chairman of Tribal Council, subject to the agenda setting
66 provisions as prescribed by the Tribal Council. The Chairman may refer any budget or
67 financial related matter to the Budget Committee for its review prior to being heard by
68 the Budget Council.

69 **(c) Budget Committee.**

70 (1) **Composition.** The Budget Committee shall consist of seven (7) members, as follows:
71 the Chairman of Tribal Council; the Vice-Chairman of Tribal Council; the Principal
72 Chief; the Vice Chief; the Secretary of Treasury; and two members of the Tribal Council
73 nominated and selected by resolution of the Tribal Council. Four (4) members of the
74 Committee shall constitute a quorum for the transaction of Committee business.

75 (2) Authority. The Budget Committee shall review and act on:

76 (i) all resolutions that allocate fifty-thousand dollars (\$50,000) or more of funds
77 of the Eastern Band of Cherokee Indians that have not already been approved
78 through the annual budget process; and

79 (ii) any budget or financial related matter referred to the Budget Committee by the
80 Chairman of Tribal Council or by majority vote of Tribal Council; and

81 (iii) any resolution that authorizes any department or division of the Eastern Band
82 of Cherokee Indians to make an application and/or receive grant funding from an
83 agency of the national government, state government, tribal grantor or private
84 foundation.

85 The Budget Committee shall have the authority to approve, deny or table for
86 future action such resolutions and referred matters as described in (i), (ii) or (iii)
87 immediately above. Resolutions and matters that are approved by the Budget
88 Committee shall be forwarded to the Chairman of Tribal Council for
89 consideration of placement on the Budget Council agenda.

90 (3) Committee Chair. The Principal Chief shall serve as the Chair of the Budget
91 Committee. In the absence of the Principal Chief, the Vice-Chief shall serve as Chair.

92 (4) Meetings. The Budget Committee shall meet at least monthly to review proposed
93 resolutions and referred matters. This meeting should be held before the resolution
94 deadline for the next scheduled Budget Council to allow sufficient time for review,
95 approval, and referral of items to the Chairman for inclusion on the Budget Council
96 agenda.

97 (5) Procedures. The Budget Committee shall develop procedures and adopt, by a
98 majority vote, said procedures to govern its work. The Office of Budget & Finance, the
99 Office of the Attorney General and the Legislative Counsel shall provide administrative
100 support to the Budget Committee.

101 (6) Minutes. The Budget Committee shall keep minutes of all meetings and records of all
102 votes. Minutes and records of votes shall be public records subject to disclosure under
103 C.C. § Chapter 132 (Public records law).

104 **Sec. 117-46. - Financial accountability.**

105 (a) Subsequent to the approval of Annual Budgets by the Tribal Council, no funds may be
106 expended for any line item in excess of the budgeted amounts. The Budget Committee
107 Council shall have authority to reallocate appropriations within the overall budget. The
108 Tribal Council shall have sole authority to amend the overall budget.

109 (b) Inadvertent expenditures in excess of a budgeted line item amount shall be
110 reimbursed by the authorizing official unless the Tribal Council approves the expenditure
111 and amends the appropriate line item.

112 (c) Intentional or flagrant expenditures in excess of a budgeted amount shall constitute a
113 criminal offense by the authorizing official against the Tribe. Punishment for violation of
114 this section shall be a fine of not more or less than \$1,000.00, imprisonment for up to 30
115 days and reimbursement to the Tribal Finance Office.

116 (d) The Tribal Finance Office shall not knowingly issue payments in excess of a budgeted
117 amount.

118 (e) The Tribal Council shall not approve or adopt an Annual Budget in excess of its
119 projected income.

120 **Sec. 117-47. - Balanced budget act.**

121 (a) **Balanced budget required.** The Executive Committee shall propose, and the Tribal
122 Council shall pass, only a balanced budget.

123 (b) **Definition.** "Balanced budget" means a budget in which expenditures for the fiscal
124 year in question do not exceed the projected revenues for that fiscal year.

125 (c) **Budgets based on need.** Tribal division program, commission and enterprise budgets
126 shall be based on justified need. Increases and decreases in the budgets shall be tailored
127 to the needs of individual divisions and programs, commission and enterprise. Across-
128 the-board increases are prohibited. Increases shall not exceed five percent of the total
129 General Fund gaming appropriations for the current fiscal year.

130 (d) **Executive director/chairman reports.** The executive directors/chairmen of each
131 tribal division, commission and enterprise shall provide to the Principal Chief, orally and
132 in writing, a report consisting of a budget- to-actual comparison of revenues and expenses
133 within their division, commission and enterprise (including for each program). The report
134 shall be presented every six months. For the six-month period ending March 31, reports
135 are due on or before June 15. For the six-month period ending September 30, reports are
136 due on or before January 15. Within 30 days of the date on which the reports are due, the
137 Principal Chief shall present to Tribal Council a written summary for each division,
138 commission and enterprise.

139 (e) **Amendments.** An annual budget approved by Tribal Council shall not be amended if
140 the amendment will cause the Tribe to exceed the projected revenues of the current fiscal
141 year. This restriction does not apply in cases of emergency caused by natural disasters.

142 (f) **Grants.** When possible, grants shall be written to include administrative costs. If the
143 grant does not allow for inclusion of administrative costs, the program manager or other
144 representative shall explain in detail why the grant cannot be written to include
145 administrative costs. If a grant presents recurring costs to the Tribe, the Tribal Council
146 shall carefully scrutinize the grant requirements, the projected recurring costs, the need
147 for the grant money, and other relevant details to determine whether participating in the
148 grant is fiscally responsible. The request to Tribal Council to approve a grant shall be
149 made in the form of a resolution which shall be reviewed by the ~~Grants Administration~~

150 ~~program and the Budget and Finance Division~~ Office of Budget & Finance before being
151 presented to the Budget Committee. The ~~Deputy Officer~~ Secretary of each division shall
152 inform Tribal Council of the impending expiration or sunset of each grant within their
153 division at least six months before the expiration or sunset of each grant.

154 (g) **Annual budget and report.** As provided in section 21 of the Tribal Charter, the
155 Executive Committee shall present to Tribal Council a proposed budget. Additionally, the
156 Principal Chief shall present an oral summary of the proposal to the members of the Tribe
157 and Council in a televised Council session within 30 days after submitting the proposed
158 budget to Council. The proposed budget shall be in the form of a detailed outline of the
159 administration's policy and funding priorities, as well as a presentation of the Tribe's
160 economic outlook for the coming fiscal year. The proposed budget shall estimate
161 spending, revenue and borrowing levels, with input from Tribal divisions, programs,
162 commission and enterprise with funding broken down by budget and/or function
163 categories.

164 (h) **Quarterly reports.** Each quarter, the Principal Chief shall provide a written and oral
165 financial report to Tribal Council describing the Tribe's current financial condition.

166 (i) **Strategic plans.** The Executive Committee shall develop one-year strategic plan and a
167 five-year strategic plan and shall submit the plans to Tribal Council for review and
168 approval. Strategic plans shall be submitted to Tribal Council on or before April 15 of
169 each year, and shall be revised regularly to reflect changing circumstances. A strategic
170 plan shall not be effective to guide the Tribe until it is passed by Tribal Council and
171 ratified by the Principal Chief. Strategic plans shall address the long-term financial and
172 operational parameters of the Tribe, and shall be written according to an analytical
173 process developed by the Executive Committee. Strategic plans shall include divisional
174 and cross-divisional assessments of needs and services provided by the executive branch
175 of Tribal government.

176 (j) **Endowment and investment funds.** The Principal Chief shall prepare and submit an
177 annual budget for the first and second Endowment and Investment Funds created in
178 section 16C-10 to the Tribal Council at the same time he or she submits the Tribe's
179 annual operating budget. The Endowment and Investment Funds budget shall include any
180 matching provisions for tribal enterprises and other detail costs that can be reasonably
181 projected. The Endowment and Investment Funds budget shall not include recurring
182 operating costs of Tribal divisions and programs, which shall be taken from the General
183 Fund.

184 (k) **Borrowing permitted.** Nothing in this section shall be construed to prevent the Tribe
185 from borrowing money for any appropriate purpose approved by Tribal Council,
186 provided that the Tribe has sufficient projected receipts to repay the debt within a
187 reasonable time.