

# TABLED

CHEROKEE COUNCIL HOUSE  
CHEROKEE, NORTH CAROLINA

MAR 05 2020

Date: \_\_\_\_\_

ORDINANCE NO.: 151 (2020)

Short Title: *an ordinance to amend four sections of the Tribal Election ordinance, as follows: C.C. § 161-4.2 (to shorten the deadline for write-in candidates); C.C. § 161-5 (to allow a person to withdraw from being a candidate); C.C. § 161-7 (to clearly state the burden for protests), and C.C. § 161-15 (making two amendments to provisions governing absentee voting).*

**WHEREAS**, Section 6 of the Tribe's Charter and Governing Document empowers the Tribal Council to enact rules and regulations for the conduct of Tribal elections and the Tribe has codified its election laws at Cherokee Code Chapter 161; and

**WHEREAS**, in 2019, the Cherokee Supreme Court issued rulings in response to appeals from decisions of the Board of Elections that caused the Board, Tribal officials and the community generally to scrutinize the election ordinance to ensure that the Board fully complied with the Court's rulings; and

**WHEREAS**, C.C. § 161-4.2, governing the filing period for write-in candidates, should be amended to shorten the filing deadline to allow the Board ample time to complete its work certifying candidates for each elected office; and

**WHEREAS**, C.C. § 161-5 should be amended to express what happens when a candidate for elected office wishes to withdraw from running for office before the election takes place; and

**WHEREAS**, C.C. § 161-7 should be amended to clarify that a run-off election may be ordered by the Board when irregularities affected the outcome of the election, to conform with the standard expressed in C.C. § 161-16; and

**WHEREAS**, C.C. § 161-15 should be amended to allow military families stationed away from Cherokee to be able to vote, and to clarify when voters in treatment facilities may vote by absentee ballot.

**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 Cherokee Code Chapter 161 shall be amended as follows:

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

- (a) All persons wishing to run as write-in candidates in the primary election must declare their candidacy by filing with the Board of Elections between the first Monday in April and the first Friday in April April 1 and April 15 of before a primary election. All candidates must

1 complete a filing form to establish that they meet the qualifications of the office for which  
2 they file.

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4 **Sec. 161-5. - Primary elections.**

5 (a) The two candidates receiving the most votes for the office of Principal Chief and Vice-Chief  
6 and the four candidates receiving the most votes for the two Tribal Council seats in each  
7 township shall be certified by the Board of Elections, and their names shall be placed on the  
8 ballot for the general election.

9 (b) The two candidates receiving the most votes for the office of School Board in each district  
10 shall be certified by the Board of Elections, and their names shall be placed on the ballot for  
11 the general election.

12 (c) If two or fewer candidates file and are certified eligible under Section 161-4 for Principal  
13 Chief, Vice-Chief, or a district School Board position, then no primary election shall be held  
14 for that office, and those candidates shall have their names placed on the ballot for the general  
15 election.

16 (d) If four or fewer candidates file and are certified eligible under Section 161-4 for Tribal  
17 Council in a particular township, then no primary election for Tribal Council shall be held in  
18 that township, and those candidates shall have their names placed on the ballot for the general  
19 election.

20 (e) A candidate may voluntarily withdraw his or her name from the election by submitting a  
21 written letter to the Board of Elections which clearly and unequivocally states the candidate's  
22 desire to no longer be considered as a candidate for office. If a candidate withdraws, and ballots  
23 for the election have not been printed, the Board of Elections shall remove the candidate's  
24 name from consideration, and it shall not appear on the ballot. If a candidate withdraws after  
25 ballots have been printed, the candidate's name shall remain on the ballot, however all votes  
26 for that candidate shall be considered null and void. This subsection shall apply to primary,  
27 general, special, and run-off elections as applicable.  
28

29 **Sec. 161-7. - Run-off elections.**

30 (a) The Board of Elections shall have the authority to conduct run-off elections to fill the offices  
31 for Principal Chief, Vice-Chief, Tribal Council, and School Board.

32 (b) A run-off election shall be held within 15 calendar days of the decision of the Board of  
33 Elections to hold such a run-off.

34 (c) The Board of Elections shall have authority to conduct run-off elections if any of the  
35 following occur:

36 (1) The Board determines that a recount of ballots would not produce an accurate vote  
37 count; or

38 (2) The Board determines upon research and investigation conducted on its own initiative,  
39 or in response to a timely filed protest under C.C. Sec. 161-16, that irregularities ~~in the~~  
40 ~~conduct of the election affected the actual outcome of the election or rendered the results~~  
41 ~~contrary to the Tribal Charter or this Chapter; or unfairly and improperly or illegally~~  
42 ~~affected the actual outcome of the election, and but for the irregularity, the winning~~  
43 ~~candidate would not have prevailed at the polls.~~  
44

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

2 (a) The Board of Elections shall prepare and administer a separate ballot for absentee voting.  
3 The absentee ballot shall be identical to the regular ballot except that it shall be printed on  
4 paper of a different color.

5 (b) Only enrolled members who are registered to vote and meet one of the following  
6 requirements may vote by mail or in person by absentee ballot:

7 (1) Tribal members serving on active military duty, including immediate family members  
8 who reside in the household, who are unable to return to Cherokee to cast their votes;

9 (2) Tribal members employed with the federal government assigned to duty other than the  
10 Cherokee Indian Reservation who are unable to return to Cherokee to cast their votes;

11 (3) Tribal members enrolled in institutions of higher education that are unable to return to  
12 Cherokee to cast their votes;

13 (4) Tribal members who are employees of the Tribe and are required to be away from  
14 Cherokee for training or for reasons required by their employment on the date of election  
15 who are unable to return to Cherokee to cast their votes;

16 (5) Tribal members who: because of illness are in a hospital, nursing home, or other  
17 treatment facility and who because of their physical condition and course of treatment are  
18 ~~unable to return to Cherokee~~ unable to go to the polling place to cast their votes; or

19 (6) Tribal members who physically reside on Cherokee trust lands but who will be absent  
20 from Cherokee on Election Day for business or personal reasons, and are unable to return  
21 to Cherokee to cast their votes.  
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23 **BE IT FINALLY ORDAINED** that all ordinances which are inconsistent with this ordinance are  
24 rescinded, and that this ordinance shall become effective upon ratification by the Principal  
25 Chief.  
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30 *Submitted by the Board of Elections.*