

TABLED

Cherokee Council House
Cherokee, North Carolina
MAR 05 2020

Date

ORDINANCE NO. 158 (2020)

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9 WHEREAS, the Charter and Governing Document authorizes and empowers the Eastern Band
10 of Cherokee Indians (EBCI) Tribal Council to adopt laws and regulations for the
11 general government of the Tribe. Charter and Governing Document §23 (Sept. 5,
12 1995) *see also* C.C. §117-10.

13
14 WHEREAS, the Tribal Council constitutes the Eastern Band of Cherokee Indian's Legislative
15 Branch of government. C.C. §117-10.

16
17 WHEREAS, the Tribe currently has two primary housing programs: the oldest program is Qualla
18 Housing Authority (QHA), which is established in Tribal ordinance in Cherokee
19 Code Chapter 44. (See Ord. No. 573 (1993).) Qualla Housing Authority was
20 created in 1962 to receive and administer federal funds for low income housing and
21 it is the EBCI's "Trially Designated Housing Entity" (TDHE) recognized by the
22 U.S. Department of Housing and Urban Development (HUD) as the entity of the
23 EBCI authorized to receive and administer federal housing funds.

24
25 WHEREAS, in or about 2005, the Tribe created within the executive branch the Division of
26 Housing and Community Development (HCD) to serve Tribal housing needs not
27 being met by QHA.

28
29 WHEREAS, since approximately 2007, the EBCI has been moving toward merging and
30 consolidating its two housing entities into a single Tribal housing entity.

31
32 WHEREAS, in 2008, Tribal Council passed Resolution No. 563 (2008) for the purpose of
33 moving toward merging QHA and HCD, and the Tribe is now ready to merge the
34 two entities.

35
36 NOW, THEREFORE, BE IT ORDAINED by the Eastern Band of Cherokee Indians in Tribal
37 Council assembled, at which a quorum is present that the Tribal Council of the
38 Eastern Band of Cherokee Indians amends the Cherokee Code (C.C.) as follows:

- 39
40 (a) by repealing existing C.C. Chapter 44 in its entirety; and
41 (b) by inserting a new C.C. Chapter 44 creating a unified housing authority
42 identified as the Cherokee Housing Division, as described in the attached
43 and incorporated EXHIBIT A.

44
45 BE IT FURTHER ORDAINED that merged housing entity, to be known as the Cherokee
46 Housing Division, shall be authorized, among other things, to serve as the

1 Tribally Designated Housing Entity for the purposes of receiving and
2 administering federal housing funds, including but not limited to funds provided
3 by the federal government through NAHASDA. Further, the Cherokee Housing
4 Division shall assume all of the assets, liabilities, duties and responsibilities of the
5 both QHA and HCD.

6
7 BE IT FURTHER ORDAINED the provisions of this Ordinance shall become effective on
8 _____, 2020.

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

13
14 *Submitted by Principal Chief Richard G. Sneed and Edwin Taylor, Housing Secretary.*
15

Cherokee Code
Chapter 44 – HOUSING
ARTICLE I. – IN GENERAL

Sec. 44-1. – Short title.

This chapter shall be known and cited as the Cherokee Housing Code.

Sec. 44-2. – Establishment.

The Eastern Band of Cherokee Indians hereby establishes the Cherokee Housing Division (CHD).

Sec. 44-3. – Purpose and objectives.

The purposes of the Cherokee Housing Division shall be:

- (a) To improve the standard of living for Cherokee families and individuals by facilitating increased construction of new homes and rehabilitation of existing homes; and
- (b) To provide or facilitate opportunities for Cherokee families and individuals to have access to public and private sources of funding for the construction or rehabilitation of homes; and
- (c) To provide infrastructure planning and development for future growth of Cherokee communities; and
- (d) To foster the growth of Cherokee communities by adopting the most current economical and technical advances in planning, design and construction; and
- (e) To be the successor-in-interest to the Qualla Housing Authority and to the Tribe's Department of Housing and Community Development, which are hereby combined into this single entity identified as the Cherokee Housing Division.

1 **Sec. 44-4. – Personnel and organization.**

- 2 (a) A Secretary of Housing shall administer the Cherokee Housing Division. The
3 Secretary shall be appointed by and shall serve at the pleasure of the Principal
4 Chief. As funds are available, and in accordance with Tribal law and the Tribe’s
5 Personnel Policy, the Secretary shall hire personnel as may be deemed necessary
6 to carry out the purposes of the Cherokee Housing Division. All personnel shall
7 be employed and compensated in accordance with the Tribe’s Personnel Policy.
- 8 (b) The Cherokee Housing Authority shall consist of the following eight departments:
- 9 (1) Site-prep/Infrastructure
 - 10 (2) Construction
 - 11 (3) Housing services
 - 12 (4) Housing production
 - 13 (5) HELP program
 - 14 (6) Rehabilitation
 - 15 (7) Housing property.

16
17 **Sec. 44-5. – Authority, duties and responsibilities.**

18 The Secretary shall have the authority and responsibility for the overall operation,
19 planning and direction of the Cherokee Housing Division. The Secretary shall have the following
20 duties and responsibilities:

- 21 (a) Provide written monthly or quarterly reports to the Executive Committee and the
22 Housing Committee, annual reports to the EBCI Tribal Council, and any other
23 reports deemed necessary or helpful by the Executive Committee.
- 24 (b) Adopt policies, administrative rules, time frames and other measures to ensure the
25 proper and timely implementation of projects.
- 26 (c) Establish and maintain partnership with local, county, state and federal entities
27 and other authorities on matters related to the objectives of the Cherokee Housing
28 Division.
- 29 (d) Administer funds provided by the Tribe to the Cherokee Housing Division for
30 housing purposes.

- 1 (e) Serve as the Tribally Designated Housing Entity (TDHE) for the purpose of
2 applying for, receiving and administering federally-provided housing funds, if
3 such designation is necessary or helpful for that purpose.
- 4 (f) Provide effective overall management and financial direction to the departments
5 and programs of the Cherokee Housing Division.
- 6 (g) Delegate authority pertaining to the Cherokee Housing Division's operation and
7 its programs to subordinate directors and managers, to the extent permitted by the
8 Cherokee Code and the Cherokee Housing Division's policies, as appropriate.
- 9 (h) Negotiate written agreements on behalf of the Cherokee Housing Division in
10 accordance with Tribal law and policy, including but not limited to C.C. § 117-19
11 and the Fiscal Management Manual issued by the EBCI Department of Treasury.
- 12 (i) Seek external funding for programs and projects to enhance community
13 development.
- 14 (j) Make recommendations to the Executive Committee and Tribal Council regarding
15 the creation, merger, separation, amendment or abolishment of programs within
16 or specific functions of the Division.
- 17 (k) Recruit, select, supervise, conduct employee performance evaluation, and
18 recommend reclassification of positions for the administrative staff, directors, and
19 managers, in accordance with the Tribe's Personnel Policy.
- 20 (l) Assume all of the assets, liabilities, rights and responsibilities of its predecessor
21 entities identified as Qualla Housing Authority and the Housing and Community
22 Development Division.

23

24 **Sec. 44-6. – Lending by Cherokee Housing Division.**

25 Except in programs subject to federal law and policy due to the receipt and use of federal
26 funds, housing loan programs operated by the Cherokee Housing Division shall be programs of
27 secondary resort and made available to borrowers who are not otherwise eligible or qualified to
28 obtain a housing loan from a financial institution that is not part of the EBCI Tribal government.
29 Further, housing loans provided by the Cherokee Housing Division shall comply with the written
30

1 policies and procedures of the Housing Division. Such policies and procedures shall be applied
2 uniformly, fairly, and without bias or favoritism.

3
4 **Sec. 44-7. – Lending limit.**

5 Except in programs subject to federal law and policy that provide for a larger loan,
6 housing loans provided by the Cherokee Housing Divisions shall not exceed a principal amount
7 of one-hundred fifty thousand dollars (\$150,000.00).

8
9 **Sec. 44-8 through 44-16. – Reserved for future codification purposes.**

10
11 ***

12 **Chapter 117 – TRIBAL GOVERNMENT**
13 **ARTICLE III. – BOARDS AND COMMITTEES**

14 ***

15 **Sec. 117-43.1. – Housing Committee; generally.**

- 16 (a) The Housing Committee shall be composed of persons who, by their education
17 and experience, have clearly demonstrated their commitment to the delivery,
18 construction or administration of housing opportunities and/or financial lending
19 for housing purposes. There shall be six voting members.
20 1. The Tribal Council shall appoint three members to the Housing
21 Committee.
22 2. The Principal Chief shall appoint three members to the Housing
23 Committee.
24 b. A resolution of the EBCI Tribal Council, properly passed and ratified according
25 to Tribal law, shall be conclusive evidence of the due and proper appointment or
26 reappointment of the committee member.
27 c. No person shall be barred from serving on the Housing Committee because he or
28 she is a tenant or homebuyer in a house or housing project of the Tribe. Housing
29 Committee members shall be entitled to fully participate in all meetings
30 concerning matters that affect all the tenants or homebuyers, even though such

1 matters affect him or her as well. However, no such Housing Committee member
2 shall be entitled or permitted to participate in or be present at any meeting
3 (except in his or her capacity as a tenant or homebuyer) or to be counted or
4 treated as a Housing Committee member, concerning any matter involving his,
5 or any member of his immediate family, individual rights, obligations or status as
6 of tenant or homebuyer.

7 d. In all matters, members of the Housing Committee shall remain neutral and
8 unbiased in its decision making, and shall pursue the uniform application and
9 interpretation of the Tribe's housing laws and programs. Each Housing
10 Committee member who has an actual or potential conflict of interest with a
11 matter being considered by the Committee should remove himself or herself
12 from the room during discussion of the matter and shall recuse himself or herself
13 from any decision or vote on the matter.

14
15 **Sec. 117-43.2. – Housing Committee officers.**

16 a. The Housing Committee shall select from among its members a chairman, vice-
17 chairman, and a secretary. A Housing Committee member can be both the vice-
18 chairman and the secretary. The Housing Committee officers shall serve a two-
19 year term.

20 b. In the event the chairman resigns, dies, or is otherwise unable to complete his
21 term, the Housing Committee shall reappoint a new chairman to complete the
22 vacated term.

23 c. In the chairman's absence, the vice-chairman shall preside; and in the absence of
24 both the chairman and the vice-Chairman, the secretary shall preside.

25
26 **Sec. 117-43.3. - Housing Committee – removal of members.**

27 a. A Housing Committee member may be removed by the appointing power for any
28 of the following reasons:

29 1. Serious inefficiency or neglect of duty.

30 2. Misconduct in office.

1 3. If the Housing Committee member is a participant in a Cherokee Housing
2 Division program and is delinquent in his or her payment obligations for
3 an excess of three consecutive months.

4 b. Before a Housing Committee member may be removed from the Committee, the
5 appointing authority shall provide the member with notice and an opportunity to
6 be heard regarding his or her proposed removal. Such notice shall be not less
7 than ten days' before the scheduled hearing date.

8 1. The notice shall be written and include the specific allegations against
9 him or her and reason for removal.

10 2. During the hearing, the member shall have an opportunity to be heard in
11 person or by counsel and present witnesses on their behalf.

12 3. In the event of removal, a record of the proceedings together with the
13 charges and findings shall be filed with the appointing power, and a copy
14 sent to the appropriate federal Housing and Urban Development (HUD)
15 office, if required by federal law, rule or regulation. A record of
16 proceedings does not have to include a verbatim transcript of the hearing
17 or proceeding, unless a verbatim transcript is required by HUD for its
18 record.

19
20 **Sec. 117-43.4. – Housing Committee eligibility.**

21 No person shall be eligible or qualified to serve or continue to serve as a member of the

22 Housing Committee who:

23 a. Has a history of payment delinquencies;

24 b. Has been convicted of a felony or any other criminal offense involving moral
25 turpitude. For purposes of this section, a crime of moral turpitude means a
26 criminal offense involving dishonesty, fraud, or deceit; or

27 c. Is an employee of the Cherokee Housing Division.

28
29 **Sec. 117-43.5. – Housing Committee's compensation.**

1 Housing Committee members shall be entitled to compensation for their expenses,
2 including travel expenses, incurred in the discharge of their official duties, subject to restrictions
3 in Tribal law and policy. The Cherokee Housing Division shall pay the Housing Committee
4 expenses and stipend.

5 **Sec. 117-43.6. – Housing Committee meetings.**

6 a. Housing Committee meetings shall be held at regular intervals as the policies and
7 procedures of the Committee may provide. Emergency meetings may be held on
8 twenty-four (24) hours. Business may be transacted only if a quorum of
9 members exists at the meeting at which the action is to be taken.

10 b. A majority of the full Housing Committee (i.e., notwithstanding the existence of
11 any vacancies) shall constitute a quorum for the transaction of business, but no
12 action shall be taken unless there is a majority agreement among the members
13 present.

14 c. The secretary shall keep complete and accurate records of all Housing
15 Committee meetings and actions taken.

16
17 **Sec. 117-43.7. – Housing Committee powers and duties.**

18 The Housing Committee shall be an information gathering and reporting committee. The
19 Housing Committee shall have authority to make recommendations to the Secretary of Housing,
20 Tribal Council and to the Principal Chief and Vice Chief, but shall not have authority to hire or
21 fire the Secretary, such authority being reserved to the Principal Chief, and shall not have
22 authority to direct or decide matters for the Cherokee Housing Division, for the Secretary of the
23 Division or for the personnel employed in the Division.

24
25 **Sec. 44-1. – Authority.**

26 ~~Pursuant to the Authority vested in the Eastern Band of Cherokee Indians of North~~
27 ~~Carolina (hereinafter referred to as the EBCI), by virtue of its inherent powers of self-~~
28 ~~government, and its authority to provide for the health, safety, morals and welfare of the EBCI,~~
29 ~~hereby establishes a public body known as the Qualla Housing Authority (hereinafter referred~~
30

1 to as the "Authority"), and enacts this chapter which shall establish the purposes, powers and
2 duties of the Authority.

3
4 **Sec. 44-2. Purpose.**

5 (a) In any suit, action or proceeding involving the validity or enforcement of or relating
6 to any of its contracts, the Authority shall be conclusively deemed to have become
7 established and authorized to transact business and exercise its powers upon proof of
8 the adoption of this chapter.

9 (b) A copy of the chapter, duly certified by the Secretary of the Tribal Council, shall be
10 admissible in evidence in any suit, action or proceeding.

11 (c) It is the purpose and intent of this chapter to authorize the Authority to do any and all
12 things necessary or desirable to secure the financial aid or cooperation of the federal
13 government in the undertaking, construction, maintenance or cooperation of any
14 project by the Authority.

15
16 **Sec. 44-3. Declaration of need.**

17 It is hereby declared:

18 (a) There exist on the lands owned by the EBCI insanitary, unsafe, and
19 overcrowded dwelling accommodations; that there is a shortage of decent,
20 safe and sanitary dwelling accommodations available at rents or prices which
21 persons of low income can afford; and that such shortage forces such persons
22 to occupy insanitary, unsafe and overcrowded dwelling accommodations;

23 (b) These conditions cause an increase in and spread of disease and crime and
24 constitute a menace to health, safety, morals and welfare; and that these
25 conditions necessitate excessive and disproportionate expenditures of public
26 funds for crime prevention and punishment, public health and safety
27 protection, fire and accident prevention, and other public services and
28 facilities;

1 ~~(c) The shortage of decent, safe and sanitary dwellings for persons of low income~~
2 ~~cannot be relieved through the operation of private enterprises;~~

3 ~~(d) The providing of decent, safe and sanitary dwelling accommodations for~~
4 ~~persons of low income are public uses and purposes, for which money may be~~
5 ~~spent and private property acquired and are governmental functions of EBCI~~
6 ~~concern;~~

7 ~~(e) The residential construction activity and a supply of acceptable housing are~~
8 ~~important factors to general economic activity, and that the undertakings~~
9 ~~authorized by this chapter to aid the production of better housing and more~~
10 ~~desirable neighborhood and community development at lower costs will make~~
11 ~~possible a more stable and larger volume of residential construction and~~
12 ~~housing supply which will assist materially in achieving full employment; and~~

13 ~~(f) The necessity in the public interest for the provisions hereinafter enacted is~~
14 ~~hereby declared as a matter of legislative determination.~~

15
16 **Sec. 44-4. Duties.**

17
18 ~~(a) Remedying unsafe and insanitary housing conditions that are injurious to the public~~
19 ~~health, safety and morals;~~

20 ~~(b) Alleviating the acute shortage of decent, safe and sanitary dwellings for persons of~~
21 ~~low income; and~~

22 ~~(c) Providing employment opportunities through the construction, reconstruction,~~
23 ~~improvement, extension, alteration or repair and operation of low income dwellings.~~

24
25 **Sec. 44-5. Definitions.**

26 The following terms, wherever used or referred to in this chapter, shall have the
27 following respective meanings, unless a different meaning clearly appears from the context:

28
29 ~~(a) *Area of operation* means all areas within the jurisdiction of the EBCI.~~

30 ~~(b) *Board* means Board of Commissioners of Qualla Housing Authority.~~

1 ~~(c) EBCI Tribal Council means the governing body of the Eastern Band of Cherokee~~
2 ~~Indians of North Carolina that is representative of the general membership. There are~~
3 ~~12 Tribal Council members and they are the only people who can represent the~~
4 ~~wishes of, speak for, or contract for the Eastern Band of Cherokee Indians of North~~
5 ~~Carolina in any official capacity.~~

6 ~~(d) Federal government includes the United States of America, the Department of~~
7 ~~Housing and Urban Development, or any other agency or instrumentality, corporate~~
8 ~~or otherwise, of the United States of America.~~

9 ~~(e) Homebuyer means a person who has executed a lease purchase agreement with the~~
10 ~~Authority, and who has not yet achieved home ownership.~~

11 ~~(f) Housing project or project means any work or undertaking to provide or assist in~~
12 ~~providing (by any suitable method, including but not limited to: rental, sale of~~
13 ~~individual units in single family or multi family structures under conventional~~
14 ~~condominium, or cooperative sales contracts or lease purchase agreements; loans; or~~
15 ~~subsidizing of rentals or charges) decent, safe and sanitary dwellings, apartments, or~~
16 ~~other living accommodations for persons of low income. Such work or undertaking~~
17 ~~may include buildings, land, leaseholds, equipment, facilities, and other real or~~
18 ~~personal property for necessary, convenient, or desirable appurtenances, for streets,~~
19 ~~sewers, water service, utilities, parks, site preparation or landscaping, and for~~
20 ~~administrative, community, health, recreational, welfare, or other purposes. The term~~
21 ~~"housing project" or "project" also may be applied to the planning of the buildings~~
22 ~~and improvements, the acquisition of property or any interest therein, the demolition~~
23 ~~of existing structures, the construction, reconstruction, rehabilitation, alteration or~~
24 ~~repair of the improvements or other property and all other work in connection~~
25 ~~therewith, and the term shall include all other real and personal property and all~~
26 ~~tangible or intangible assets held or used in connection with the housing project.~~

27 ~~(g) Obligations means any notes, bonds, interim certificates, debentures, or other forms~~
28 ~~of obligation issued by the Authority pursuant to this chapter.~~

29 ~~(h) Obligee includes any holder of an obligation, agent or trustee for any holder of an~~
30 ~~obligation or lessor demising to the Authority property used in connection with a~~

1 project, or any assignee or assignees of such lessor's interest or any part thereof, and
2 the federal government when it is a party to any contract with the Authority in
3 respect to a housing project.

4 ~~(i) *Persons of low income* means persons or families who cannot afford to pay enough to
5 cause private enterprise in their locality to build an adequate supply of decent, safe
6 and sanitary dwellings for their use.~~

7 ~~(j) *Representative Governing Body* means the EBCI Tribal Council.~~

8
9 **Sec. 44-6. Board of Commissioners.**

10 ~~(a) (1) The affairs of the Authority shall be managed by a Board of Commissioners
11 composed of seven persons.~~

12 ~~(2) The Board of Commissioners shall be appointed, and may be reappointed, by
13 the Tribal Council. A certificate of the Secretary of the Council as to the
14 appointment or reappointment of any Board of Commissioners member shall
15 be conclusive evidence of the due and proper appointment of the member.~~

16 ~~(3) A Board of Commissioners member must be a member of the EBCI, and may
17 be a member or non-member of the Tribal Council.~~

18 ~~(4) No person shall be barred from serving on the Board of Commissioners
19 because he is a tenant or homebuyer in a housing project of the Authority.
20 However, any homebuyer or tenant with a history of payment delinquencies
21 shall not be eligible to serve on the Board. Such Board of Commissioners
22 members shall be entitled to fully participate in all meetings concerning
23 matters that affect all of the tenants or homebuyers, even though such matters
24 affect him as well. However, no such Board of Commissioners member shall
25 be entitled or permitted to participate in or be present at any meeting (except
26 in his capacity as a tenant or homebuyer) or to be counted or treated as a
27 member of the Board of Commissioners, concerning any matter involving his
28 individual rights, obligations or status as a tenant or homebuyer.~~

29
30

1 ~~(b) The seven member Board shall consist of six members of the Tribal Council, and the~~
2 ~~seventh member shall be appointed by the Principal Chief of the Eastern Band of~~
3 ~~Cherokee Indians.~~

4 ~~(c) The Board of Commissioners shall select one of its own members to serve as a~~
5 ~~Chairman of the Board. This Chairman shall serve for a two year term. In the event the~~
6 ~~Chairman resigns, dies or is otherwise unable to complete his term, the Board of~~
7 ~~Commissioners shall reappoint a new Chairman to complete the vacated term. The~~
8 ~~Board of Commissioners shall also select from among its members a Vice Chairman~~
9 ~~and a Secretary, and any member may hold two of these positions. In the absence of the~~
10 ~~Chairman, the Vice Chairman shall preside; and in the absence of both the Chairman~~
11 ~~and the Vice Chairman, the Secretary shall preside.~~

12 ~~(d) A member of the Board of Commissioners may be removed by the appointing power~~
13 ~~for serious inefficiency or neglect of duty, misconduct in office or for homebuyer~~
14 ~~delinquencies in excess of three consecutive months, but only after a hearing before the~~
15 ~~appointing power and duly after the member has been given a written notice of the~~
16 ~~specific charges against him at least ten days prior to the hearing. At any such hearing,~~
17 ~~the member shall have the opportunity to be heard in person or by counsel and to~~
18 ~~present witnesses in his behalf. In the event of removal of any Board of Commissioners~~
19 ~~member, a record of the proceedings, together with the charges and findings thereon,~~
20 ~~shall be filed with the appointing power, and a copy thereof sent to the appropriate~~
21 ~~office of the Department of Housing and Urban Development.~~

22 ~~(e) Except for the community member appointed by the Principal Chief, Board of~~
23 ~~Commissioners members shall not receive compensation for their services, but shall be~~
24 ~~entitled to compensation for their expenses, including travel expenses, incurred in the~~
25 ~~discharge of their duties. In addition to expenses, the community member appointed by~~
26 ~~the Principal Chief shall receive a stipend, as established by the Board of~~
27 ~~Commissioners, not to exceed \$100.00 per month. This amount will be paid by the~~
28 ~~Authority.~~

29 ~~(f) A majority of the full Board of Commissioners (i.e., notwithstanding the existence of~~
30 ~~any vacancies) shall constitute a quorum for the transaction of business, but no Board~~

1 of Commissioners action shall be taken unless there is a majority agreement among the
2 members present.

3 ~~(g) The Secretary shall keep complete and accurate records of all meetings and actions
4 taken by the Board of Commissioners.~~

5 ~~(h) The Executive Director shall keep full and accurate financial records, submit periodic
6 reports to the Board of Commissioners and the Tribal Council, and submit a complete
7 annual report, in written form, to the Board, as required by [section 44-9\(a\)](#) of this
8 chapter.~~

9
10 **Sec. 44-7. Meetings.**

11 Meetings of the Board of Commissioners shall be held at regular intervals as provided
12 in the bylaws. Emergency meetings may be held upon 24 hours' actual notice and business
13 transacted, provided that at least a quorum exists.

14
15 **Sec. 44-8. Powers.**

16
17 ~~(a) The Authority shall have perpetual succession in its corporate name.~~

18 ~~(b) The Tribal Council hereby consents to allow the Authority to agree by contract to
19 waive any immunity from suit which it might otherwise have; provided, that to be
20 effective, the Authority's waiver of immunity from suit must be clearly and
21 unequivocally expressed by the Authority in the contract at issue, and the Eastern
22 Band of Cherokee Indians shall not be liable for the debts or obligations of the
23 Authority.~~

24 ~~(c) The Authority shall have the following powers which it may exercise consistent with
25 the purpose for which it is established:~~

26 ~~(1) To adopt and use a corporate seal.~~

27 ~~(2) To enter into agreements, contracts and understandings with any
28 governmental agency, federal, state or local (including the Representative
29 Governing Body) or with any person, partnership, corporation or Indian
30 Tribe; and to agree to any conditions attached to federal financial assistance.~~

1 ~~(3) To agree, notwithstanding anything to the contrary contained in this chapter~~
2 ~~or in any other provision of law, to any conditions attached to federal~~
3 ~~financial assistance relating to the determination of prevailing salaries or~~
4 ~~wages or payment of not less than prevailing salaries or wages or compliance~~
5 ~~with labor standards, in the development or operation of projects; and the~~
6 ~~Authority may include in any contract let in connection with a project~~
7 ~~stipulations requiring that the contractor and any subcontractors comply with~~
8 ~~requirements as to maximum hours of labor, and comply with any conditions~~
9 ~~which the federal government may have attached to its financial aid to the~~
10 ~~project.~~

11 ~~(4) To obligate itself, in any contract with the federal government for annual~~
12 ~~contributions to the Authority, to convey to the federal government~~
13 ~~possessions of or title to the project to which such contract relates, upon the~~
14 ~~occurrence of a substantial default (as defined in such contract) with respect~~
15 ~~to the covenants or conditions to which the Authority is subject and such~~
16 ~~contract may further provide that in case of such conveyance, the federal~~
17 ~~government may complete, operate, manage, lease, convey or otherwise deal~~
18 ~~with the project funds in accordance with the terms of such contract,~~
19 ~~provided: that the contract requires that, as soon as practicable, after the~~
20 ~~federal government is satisfied that all defaults with respect to the project~~
21 ~~have been cured and that the project will thereafter be operated in accordance~~
22 ~~with the terms of the contract the federal government shall reconvey to the~~
23 ~~Authority the project as then constituted.~~

24 ~~(5) To lease property from the EBCI and others for such periods as are authorized~~
25 ~~by law, and to hold and manage or to sublease the same.~~

26 ~~(6) To borrow or lend money, to issue temporary or long term evidence of~~
27 ~~indebtedness, and to repay the same. Obligations shall be issued and repaid in~~
28 ~~accordance with the provisions of [section 44-8](#)(a) of this chapter.~~
29
30

1 ~~(7) To pledge the assets and receipts of the Authority as security for debts; and to~~
2 ~~acquire, sell, lease, exchange, transfer or assign personal property or interests~~
3 ~~therein.~~

4 ~~(8) To purchase land or interest in land or take the same by gift; to lease land or~~
5 ~~interests in land.~~

6 ~~(9) To undertake and carry out studies and analyses of housing needs, to prepare~~
7 ~~housing needs, to execute the same, to operate projects and to provide for the~~
8 ~~construction, reconstruction, improvement, extensions, alteration or repair of~~
9 ~~any project or any part thereof.~~

10 ~~(10) With respect to any dwellings, accommodations, lands, buildings, or facilities~~
11 ~~embraced within any project (including individual cooperative or~~
12 ~~condominium units): To lease or rent, sell, enter into lease-purchase~~
13 ~~agreements or leases with option to purchase; to establish and revise rents or~~
14 ~~required monthly payments; to make rules and regulations concerning the~~
15 ~~selection of tenants or homebuyers, including the establishment of priorities,~~
16 ~~and concerning the occupancy, rental, care and management of housing units;~~
17 ~~and to make sure further rules and regulations as the Board of Commissioners~~
18 ~~may deem necessary and desirable to effectuate the powers granted by this~~
19 ~~chapter.~~

20 ~~(11) To finance the purchase of a home by an eligible homebuyer in accordance~~
21 ~~with regulations and requirements of the Department of Housing and Urban~~
22 ~~Development.~~

23 ~~(12) To terminate any lease or rental agreement or lease-purchase agreement when~~
24 ~~the tenant or homebuyer has violated the terms of such agreement, or failed to~~
25 ~~meet any of its obligations thereunder, or when such termination is otherwise~~
26 ~~authorized under the provisions of such agreement and to bring action for~~
27 ~~eviction against such tenant or homebuyer.~~

- 1 ~~(13) To establish income limits for admission that ensure that dwelling~~
2 ~~accommodations in a housing project shall be made available only to persons~~
3 ~~of low income.~~
- 4 ~~(14) To purchase insurance from any stock or mutual company for any property or~~
5 ~~against any risk or hazards.~~
- 6 ~~(15) To invest such funds as are not required for immediate disbursement.~~
- 7 ~~(16) To establish and maintain such bank accounts as may be necessary or~~
8 ~~convenient.~~
- 9 ~~(17) To employ an Executive Director, technical and maintenance personnel and~~
10 ~~such other officers and employees, permanent or temporary, as the Authority~~
11 ~~may require, and to delegate to such officers and employees such powers or~~
12 ~~duties as the Board of Commissioners shall deem proper.~~
- 13 ~~(18) To take such further actions as are commonly engaged in by public bodies of~~
14 ~~this character as the Board of Commissioners may deem necessary and~~
15 ~~desirable to effectuate the purposes of the Authority.~~
- 16 ~~(19) To join or cooperate with any other public housing agency or agencies~~
17 ~~operating under the laws or ordinances of a state or another Tribe in the~~
18 ~~exercise, either jointly or otherwise, of any or all the powers of the Authority~~
19 ~~and such other public housing agency or agencies for the purposes of~~
20 ~~financing (including, but not limited to, the issuance of notes or other~~
21 ~~obligations and giving security therefor), planning, undertaking, owning,~~
22 ~~constructing, operating or contracting with respect to a housing project or~~
23 ~~projects of the Authority or such other public housing agency or agencies, so~~
24 ~~joining or cooperating with the Authority, to act on the Authority's behalf~~
25 ~~with respect to any or all powers, as the Authority's agent or otherwise, in the~~
26 ~~name of the Authority or in the name of such agency or agencies.~~
- 27 ~~(20) To adopt such By laws as the Board of Commissioners deems necessary and~~
28 ~~appropriate to ensure the development of policies to effectuate good~~
29 ~~management practices.~~
- 30

1 **Sec. 44-9. — Obligations.**

2
3 ~~(a) The Authority may issue obligations from time to time in its discretion for any of its~~
4 ~~purposes and may also issue refunding obligations for the purpose of paying or retiring~~
5 ~~obligations previously issued by it. The Authority may issue such types of obligations~~
6 ~~as it may determine, including obligations on which the principal and interest are~~
7 ~~payable:~~

8 ~~(1) Exclusively from the income and revenues of the project financed with the~~
9 ~~proceeds of such obligations, or with such income and revenues together with~~
10 ~~a grant from the federal government in aid of such project;~~

11 ~~(2) Exclusively from the income and revenues of certain designated projects~~
12 ~~whether or not they were financed in whole or in part with the proceeds of~~
13 ~~such obligations; or~~

14 ~~(3) From its revenues generally.~~

15 ~~Any such obligation may be additionally secured by a pledge of any revenues of any~~
16 ~~project or other property of the Authority.~~

17 ~~(b) Neither the Board of Commissioners members of the Authority nor any person~~
18 ~~executing the obligations shall be liable personally on the obligations by reason of~~
19 ~~issuance thereof.~~

20 ~~(c) The notes and other obligations of the Authority shall not be a debt of the EBCI and the~~
21 ~~obligation shall so state on their face.~~

22
23 ~~(d) Obligations of the Authority are declared to be issued for an essential public and~~
24 ~~governmental purpose and to be public instrumentalities and, together with interest~~
25 ~~thereon and income therefrom, shall be exempt from taxes imposed by the EBCI. The~~
26 ~~tax exemption provisions of this chapter shall be considered part of the security for the~~
27 ~~repayment of obligations and shall constitute by virtue of this chapter and without~~
28 ~~necessity of being restated in the obligations, a contract between (1) the Authority and~~
29 ~~the EBCI, and (2) the holders of obligations and each of them, including all transferees~~
30 ~~of the obligations from time to time manner:~~

1 ~~(e) Obligations shall be issued and sold in the following manner:~~

2 ~~(1) Obligations of the Authority shall be authorized by a resolution adopted by~~
3 ~~the Board of Commissioners and may be issued in one or more series.~~

4 ~~(2) The obligations shall bear such dates, mature at such times, bear interest at~~
5 ~~such rates, be in such denominations, be in such form, either coupon or~~
6 ~~registered, carry such conversion or registration privileges, have such rank or~~
7 ~~priority, be executed in such manner, be payable in such medium of payment~~
8 ~~and at such places, and be subject to such terms of redemption, with or~~
9 ~~without premium, as such Agreement may provide.~~

10 ~~(3) The obligations may be sold at public or private sale at not less than par.~~

11 ~~(4) In case any of the Board of Commissioners members whose signatures appear~~
12 ~~on any obligations cease to be members before the delivery of such~~
13 ~~obligations, the signature shall nevertheless, be valid and sufficient for all~~
14 ~~purposes, the same as if the members had remained in office until delivery.~~

15 ~~(f) Obligations of the Authority shall be fully negotiable. In any suit action or proceeding~~
16 ~~involving the validity or enforceability of any obligation of the Authority or the~~
17 ~~security therefor, any such obligation reciting in substance that it has been issued by the~~
18 ~~Authority to aid in financing a project pursuant to this chapter shall be conclusively~~
19 ~~deemed to have been issued for such purpose, and the project for which such obligation~~
20 ~~was issued shall be conclusively deemed to have been planned, located and carried out~~
21 ~~in accordance with the purpose and provisions of this chapter.~~

22 ~~(g) In connection with the issuance of obligations or incurring of obligations under leases~~
23 ~~and to secure the payment of such obligations, the Authority, subject to the limitations~~
24 ~~in this chapter, may:~~

25 ~~(1) Pledge all or any part of its gross or net rents, fees or revenues to which its~~
26 ~~right then exists or may thereafter come into existence.~~

27 ~~(2) Provide for the powers and duties of obliges and limit their liabilities; and~~
28 ~~provide the terms and conditions on which such obliges may enforce any~~
29 ~~covenant or rights securing or relating to the obligations.~~
30

- 1 ~~(3) — Covenant against pledging all or any part of its rents, fees and revenues or~~
2 ~~personal property to which its title or right then exists or may thereafter come~~
3 ~~into existence or permitting or suffering any lien on such revenues or~~
4 ~~property.~~
- 5 ~~(4) — Covenant with respect to limitations on its right to sell, lease or otherwise~~
6 ~~dispose of any project or any part thereof.~~
- 7 ~~(5) — Covenant as to the obligations to be issued and as to the issuance of such~~
8 ~~obligations in escrow or otherwise, and as to the use and disposition of the~~
9 ~~proceeds thereof.~~
- 10 ~~(6) — Covenant as to what other or additional debts or obligations may be incurred~~
11 ~~by it.~~
- 12 ~~(7) — Provide for the replacement of lost, destroyed or mutilated obligations.~~
- 13 ~~(8) — Covenant against extending the time for the payment of its obligations or~~
14 ~~interest thereon.~~
- 15 ~~(9) — Redeem the obligations and covenant for their redemption and provide the~~
16 ~~terms and conditions thereof.~~
- 17 ~~(10) — Covenant concerning the rents and fees to be charged in the operations of a~~
18 ~~project or projects, the amount to be raised each year or other period of time~~
19 ~~by rents, fees and other revenues, and as to the use and disposition to be made~~
20 ~~thereof.~~
- 21 ~~(11) — Create or authorize the creation of special funds for monies held for~~
22 ~~construction or operating costs, debt service, reserves or other purposes, and~~
23 ~~covenant as to the use and disposition of the monies held in such funds.~~
- 24 ~~(12) — Prescribe the procedure, if any, by which the terms of any contract with~~
25 ~~holders of obligations may be amended or abrogated, the proportion of~~
26 ~~outstanding obligations the holders or which must consent thereto, and the~~
27 ~~manner in which such consent may be given.~~
- 28
- 29
- 30

1 ~~(13) — Covenant as to the use, maintenance and replacement of its real or personal~~
2 ~~property, the insurance to be carried thereon and the use and disposition of~~
3 ~~insurance monies.~~

4 ~~(14) — Covenant as to the rights, liabilities, powers and duties arising upon the~~
5 ~~breach by it of any covenant, condition or obligation.~~

6 ~~(15) — Covenant and prescribe as to events of default and terms and conditions upon~~
7 ~~which any or all of its obligations become or may be declared due before~~
8 ~~maturity, and as to the terms and conditions upon which such declaration and~~
9 ~~its consequences may be waived.~~

10 ~~(16) — Vest in any obligees or any proportion of them the right to enforce the~~
11 ~~payment of the obligations or any covenants securing or relating to the~~
12 ~~obligations.~~

13 ~~(17) — Exercise all or any part or combination of the powers granted in this section.~~

14 ~~(18) — Make covenants other than and in addition to the covenants expressly~~
15 ~~authorized in this section, of like or different character.~~

16 ~~(19) — Make any covenants and do any acts and things necessary or convenient or~~
17 ~~desirable in order to secure its obligations, or, in the absolute discretion of the~~
18 ~~Authority, tending to make the obligations more marketable although the~~
19 ~~covenants, acts or things are not enumerated in this section.~~

20
21 **Sec. 44-10. Reporting requirement.**

22
23 ~~(a) — The Authority shall submit an annual report, prepared by the Executive Director and~~
24 ~~signed by the Chairman of the Board, to the Tribal Council showing (1) a summary~~
25 ~~of the year's activities, (2) the financial condition of the Authority, (3) the condition~~
26 ~~of the properties, (4) the number of units and vacancies, (5) any significant problems~~
27 ~~and accomplishments, (6) plans for the future, and (7) such other information as the~~
28 ~~Authority shall deem pertinent.~~

29 ~~(b) — During his or her tenure and for one year thereafter, no Board of Commissioners~~
30 ~~member, officer or employee of the Authority, or any member of the governing body~~

1 of the EBCI, or any other public official who exercises any responsibilities or
2 functions with regard to the project, shall voluntarily acquire any interest, direct or
3 indirect, in any project or in any property included or planned to be included in any
4 project, or in any contract or proposed contract relating to any project, unless prior to
5 such acquisition, he discloses his interest in writing to the Authority and such
6 disclosure is entered upon the minutes of the Authority, and the Board of
7 Commissioners member, officer, or employee shall not participate in any action by
8 the Authority relating to the property or contract in which he has any such interest. If
9 any Board of Commissioners member, officer, or employee of the Authority
10 involuntarily acquires any such interest, or voluntarily or involuntarily acquired any
11 such interest prior to appointment or employment as a Board of Commissioners
12 member, officer, or employee the Board of Commissioners member, officer or
13 employee, in any such event, shall immediately disclose his interest in writing to the
14 Authority; and such disclosure shall be entered upon the minutes of the Authority,
15 and the Board of Commissioners member, officer, or employee shall not participate
16 in any action by the Authority relating to the property or contract in which he has any
17 such interest. Any violation of the foregoing provisions of this section shall
18 constitute misconduct in office. This section shall not be applicable to the acquisition
19 of any interest in obligations of the Authority issued in connection with any project,
20 or to the execution of agreements by banking institutions for the deposit or handling
21 of funds in connection with a project or to act as trustee under any trust indenture, or
22 to utility services the rates for which are fixed or controlled by a governmental
23 agency, or to membership on the Board of Commissioners as provided in [section 44-](#)
24 [8\(a\)](#). (The original text of the ordinance references a section which does not exist.)

25 (e) — Each project developed or operated under a contract providing for federal financial
26 assistance shall be developed and operated in compliance with all requirements of
27 such contract and applicable federal legislation, and with all regulations and
28 requirements prescribed from time to time by the federal government in connection
29 with such assistance.
30

1 ~~(d) The Authority shall obtain or provide for the obtaining of adequate fidelity bond~~
2 ~~handling cash, or authorize issuance of checks or certify vouchers.~~

3 ~~(e) The Authority shall not construct or operate any project for profit.~~

4 ~~(f) The property of the Authority is declared to be public property used for essential~~
5 ~~public and governmental purposes and such property and the Authority are exempt~~
6 ~~from all taxes and special assessments of the EBCI.~~

7 ~~(g) All property including funds acquired or held by the Authority pursuant to this~~
8 ~~chapter shall be exempt from levy and sale by virtue of an execution, and no~~
9 ~~execution or other judicial process shall issue against the same nor shall any~~
10 ~~judgement against the Authority be a charge or lien upon such property. However,~~
11 ~~the provisions of this section shall not apply to or limit the right of obligees to pursue~~
12 ~~any remedies for the enforcement of any pledge or lien given by the Authority on its~~
13 ~~rents, fees or revenues, or the right of the federal government to pursue any remedies~~
14 ~~conferred upon it pursuant to the provisions of this chapter or the right of the~~
15 ~~Authority to bring eviction actions in accordance with [section 44-7\(e\)](#).~~

16
17 **Sec. 44-11. Cooperation with Tribal government.**

18
19 ~~(a) For the purpose of aiding and cooperating in the planning, undertaking, construction or~~
20 ~~operation of projects, the EBCI hereby agrees that:~~

21 ~~(1) It will not levy or impose any real or personal property taxes or special~~
22 ~~assessments upon the Authority or any project of the Authority.~~

23 ~~(2) It will furnish or cause to be furnished to the Authority and the occupants of~~
24 ~~the projects all services and facilities of the same character and to the same~~
25 ~~extent, as the EBCI furnishes from time to time without cost or charge to~~
26 ~~other dwellings and inhabitants.~~

27 ~~(3) Insofar as it may lawfully do so, it will grant such deviations from any present~~
28 ~~or future building or housing codes of the EBCI, as are reasonable and~~
29 ~~necessary, to promote economy and efficiency in the development and~~
30 ~~operation of any project, and at the same time safeguard health and safety,~~

1 and make such changes in any zoning of the site and surrounding territory of
2 any project as are reasonable and necessary for the development of such
3 project, and the surrounding territory.

4 ~~(4) It will do any and all things, within its lawful powers, necessary or convenient~~
5 ~~to aid and cooperate in the planning, undertaking, construction or operation of~~
6 ~~projects.~~

7 ~~(5) The EBCI Government hereby declares that its powers shall be vigorously~~
8 ~~utilized to enforce eviction of a tenant or homebuyer for nonpayment or other~~
9 ~~contract violations including action through the appropriate courts.~~

10 ~~(6) The Tribal Courts of the State of North Carolina shall have jurisdiction to~~
11 ~~hear and determine an action for eviction of a tenant or homebuyer. The EBCI~~
12 ~~Government hereby declares that the powers of the State of North Carolina~~
13 ~~Tribal Courts shall be vigorously utilized to enforce eviction of a tenant or~~
14 ~~homebuyer for nonpayment or other contract violations.~~

15 ~~(b) The provisions of this chapter shall remain in effect with respect to any project, and~~
16 ~~said provisions shall not be abrogated, changed or modified without the consent of the~~
17 ~~Department of Housing and Urban Development, so long as (1) the project is owned by~~
18 ~~a public body or governmental agency and is used for low income housing purposes,~~
19 ~~(2) and contract between the Authority and the Department of Housing and Urban~~
20 ~~Development for loans or annual contributions, or both in connection with such project~~
21 ~~remains in force and effect, or (3) any obligations issued in connection with such~~
22 ~~project or any monies due to the Department of Housing and Urban Development in~~
23 ~~connection with such project remain unpaid, whichever period ends the latest.~~

24 ~~(c) If at any time title to, or possession of, any project is held by any public body or~~
25 ~~governmental agency authorized by law to engage in the development or operation of~~
26 ~~low income housing including the federal government, the provisions of this section~~
27 ~~shall inure to the benefit of and be enforced by such public body or governmental~~
28 ~~agency.~~

29
30 **Sec. 44-12. -- Secretarial approval.**

1 ~~With respect to any financial assistance contract between the Authority and the federal~~
2 ~~government, the Authority shall obtain the approval of the Secretary of the Interior of the~~
3 ~~United States of America or his designee.~~

4
5 **~~Sec. 44-13. — Autonomy.~~**

6 ~~No ordinance or other enactment of the EBCI with respect to the acquisition, operation,~~
7 ~~or disposition of EBCI property shall be applicable to the Authority in its operations pursuant~~
8 ~~to this chapter.~~

9
10 **~~Sec. 44-14. — Interpretation.~~**

11 ~~The provisions of this chapter, being necessary for the benefit of the EBCI and its~~
12 ~~members, shall be liberally construed to effect the purpose and objectives thereof.~~

13
14 **~~Sec. 44-15. — Effective date.~~**

15 ~~This chapter is effective upon enactment.~~

16
17
18 **~~Sec. 44-16. — Enforcement.~~**

19 ~~This chapter shall be enforced by the Governing Body of the Eastern Band of Cherokee~~
20 ~~Indians of North Carolina.~~