

TABLED

Cherokee Council House
Cherokee, Qualla Boundary (NC)

SEP 03 2020

Date: _____

ORDINANCE NO. 261 (2020)

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10 **WHEREAS**, The Eastern Band of Cherokee Indians established the Tribal Alcoholic Beverage
11 Control Commission by Ordinance 768 on September 8, 2011, and
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13 **WHEREAS**, The Tribal Alcoholic Beverage Control Commission was established as an
14 independent entity of the Tribe to further promote the sovereignty of the Eastern
15 Band of Cherokee Indians; and
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17 **WHEREAS**, The Tribal Alcoholic Beverage Control Commission pays for all salaries,
18 equipment, training and enforcement activities for the Tribal Alcohol Law
19 Enforcement Division (ALE); and
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21 **WHEREAS**, The Tribal Council passed Ordinance 14, in 2017, amending Cherokee Code §
22 18B-500 provided the Tribal Alcoholic Beverage Control Commission direct
23 supervision over the daily activities of the ALE Enforcement agents; and
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25 **WHEREAS**, That on August 6, 2020, Tribal Council Passed Ordinance 208, Cherokee Police
26 Commission amendments, which provided oversight authority of the ALE
27 Division to the Cherokee Police Commission; and
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29 **WHEREAS**, Unlike the other law enforcement agencies of the tribe, the ALE Division was
30 already being managed by a Commission of duly appointed representatives of the
31 people, the Tribal ABC Commission, and that the Tribal ABC Commission is an
32 independent fee supported agency of the tribe that provides all funding,
33 budgeting, equipment, policies, procedures, and personnel management of the
34 ALE Division;
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36 **NOW THEREFORE BE IT ORDAINED** by the Tribal Council of the Eastern Band of
37 Cherokee Indians assembled, at which a quorum is present, that Cherokee Code Chapter 120
38 reads as rewritten:

39 **“Chapter 120 - CHEROKEE POLICE COMMISSION**

40
41 **“Sec. 120-1. - Establishment.**

42 The Cherokee Police Commission (CPC) is hereby established as an independent law
43 enforcement oversight ~~and~~ agency of the Tribe.
44

45 **“Sec. 120-2. - Purpose.**

46 The purpose of the Commission is to provide performance and regulatory oversight of Tribal
47 law enforcement agencies and to act as the liaison between the community, law enforcement, and

1 the Executive and Legislative branches of Tribal Government providing transparency and
2 advocacy to issues influencing crime and justice of Tribal trust lands.
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4 **“Sec. 120-3. - Definitions.**

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

- 6 (a) *Commission* shall mean the Cherokee Police Commission (CPC).
- 7 (b) *Commissioner and/or member* shall mean an authorized member of the Cherokee
8 Police Commission.
- 9 (c) ~~Chairman~~ *Chair* shall mean the Chairperson of the Cherokee Police Commission.
- 10 (d) ~~Vice Chairman~~ *Chair* shall mean the Vice-Chairperson of the Cherokee Police
11 Commission.
- 12 (e) *Law Enforcement Agency* shall mean an agency responsible for enforcing the laws of
13 the Eastern Band of Cherokee Indians, including but not limited to: the Cherokee
14 Police Department (CPD), the Alcohol Law Enforcement Division (ALE), the Natural
15 Resources Enforcement Office (NREO), Cherokee Animal Control (CAC), Marshall
16 Service/Probation, and Detention Center.
- 17 (f) *Law Enforcement Officer* or *Law Enforcement Official* shall mean any authorized
18 personnel delegated authority to enforce the laws of the Eastern Band of Cherokee
19 Indians.
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21 **“Sec. 120-4. - Commission membership.**

22 Nominations to serve on the Cherokee Police Commission are made by the Principal Chief.
23 Tribal Council approves membership appointments and the Commission's annual work plan. The
24 Commission shall consist of eight members, six of whom shall be members representing the six
25 Tribal townships of the Eastern Band of Cherokee Indians, the other two representing one "at
26 large" male and one "at large" female. The Cherokee Police Commission may recommend to
27 ~~Tribal Council~~ Principal Chief that a member of the Commission be removed therefrom if a
28 majority of the members of the Commission agree. Commissioners shall be removed from office
29 by the nominating authority.
30

31 **“Sec. 120-5. - Authority.**

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

- 33 (a) Oversight of all Tribal Law Enforcement programs. The Chief of Police and other
34 Tribal Law Enforcement Managers shall manage the daily operations of their respective
35 program and shall implement the Commission's policies and goals; the Chief of Police
36 and other Tribal Law Enforcement Managers shall report to the Commission.
- 37 (b) Review, ~~amend~~ amend, and approve as needed the agency policy and procedure
38 manuals, handbooks, guidelines, or memorandums of understanding used by each
39 agency.
- 40 (c) (Repealed)
- 41 (d) Formation of a system to receive, review, and monitor public complaints and concerns
42 regarding law enforcement to ensure law enforcement agencies and officers are ~~is~~
43 meeting the needs of the community.
- 44 (e) Hear final appeals from Law Enforcement Officers for discipline imposed by their
45 respective Law Enforcement Program Manager, Chief of ~~Police~~ Police, or the Internal
46 Review Board;

- 1 (f) Review and make recommendations for the annual budgets prepared by Law
2 Enforcement Program Managers and the Chief of Police providing advocacy and
3 support for budgets to the Principal Chief and Tribal Council;
- 4 (g) Review and make recommendations for the qualifications for each rank and grade in the
5 law enforcement field and make recommendations as necessary to ensure consistency
6 within tribal law enforcement agencies;
- 7 (h) Review and make recommendations for the purchase and use of effective and necessary
8 equipment used by or in connection with the operation of law enforcement
9 ~~departments, programs, departments or programs;~~
- 10 (i) Monitor the complaints made to all law enforcement agencies for officer misconduct to
11 ensure the Chief of Police and other Tribal Law Enforcement Managers have responded
12 to and taken appropriate action consistent with policy on law enforcement ethics and
13 ~~misconduct. And misconduct and to~~ provide an annual report to the Chief and Tribal
14 Council ~~on this regarding complaints, resolutions, and potential training needs for~~
15 officers.
- 16 (j) Submit an annual report to the Principal Chief and Tribal Council containing
17 quantitative and qualitative (performance) measures that illustrate ~~how much and what~~
18 ~~type the volume and~~ of crimes are being reported, investigated, and charged in tribal,
19 federal and state courts and how efficiently law enforcement is contribution to the
20 justice ~~system; system;~~
- 21 (k) All Commissioners shall have the authority to vote on issues coming before the
22 Commission;
- 23 (l) To draft, ~~approve approve,~~ and implement protocols for the administration of duties
24 placed upon the Cherokee Police Commission;
- 25 (m) To share relevant ~~information perspectives information and perspectives~~ from other
26 community groups, ~~organizations and organizations, or~~ constituencies with the
27 Commission;
- 28 (n) To represent the Commission at public events and other organizational meetings;
- 29 (o) Serve on temporary committees or task groups that address specific work plan items;
- 30 (p) Investigative subpoena power;
- 31 (q) Authority to review all personnel actions taken by each law enforcement agency in the
32 course of its daily operations to ensure proper management and development of law
33 enforcement officers and staff and to address concerns of law enforcement management
34 in official reports to the Principal Chief and Executive Committee, Tribal ~~Alcohol~~
35 Alcoholic Beverage Control Commission, or other governing authority with direct
36 responsibility for the agent; and
- 37 (r) Serve as an outreach entity for citizens to submit law enforcement recommendations,
38 complaints and/or commendations.
- 39

40 **“Sec. 120-6. – Recommendations of the Commission.**

41 The Commission shall consult with all tribal law enforcement agencies and their
42 leadership prior to implementing new ~~policy; policy;~~ however the decision of the Commission on
43 law enforcement policy and the implementation of Commission goals shall be final and shall be
44 fulfilled.

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1 "Sec. 120-7. – Application of Chapter.

2 Notwithstanding the provisions of this Chapter, the Tribal ABC Commission, as the
3 governing authority over the Alcohol Law Enforcement Division, shall have final decision
4 making authority regarding all budgeting, policy, personnel, memoranda of understanding,
5 mission, goals, and daily activities of the Alcohol Law Enforcement Division and its personnel
6 as outlined in Cherokee Code § 18B-500. Any final decision issued in accordance with Cherokee
7 Code §§ 18B-200(f) and 18B-500 by the Tribal ABC Commission, its Chair, or the Chair's
8 designee, shall supersede a decision of the Cherokee Police Commission on that issue. A
9 decision by the Tribal ABC Commission to override a decision of the Cherokee Police
10 Commission shall be made in writing to the Chair of the Cherokee Police Commission informing
11 the Cherokee Police Commission of the decision and reason therefor."

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13 **BE IT FURTHER ORDAINED** that this amendment shall be effective upon ratification by the
14 Principal Chief, and all prior ordinances and resolutions inconsistent with this ordinance are
15 rescinded.

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17 *Submitted By Tribal ABC Commission*