

# TABLED

Cherokee Council House  
Cherokee, North Carolina  
**JUN 01 2021**

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Date

Ordinance No. 470 (2021)

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 created the Housing Infrastructure Funds (HIF) Program. Eastern Band of Cherokee Indians Tribal Council Resolution No. 406 (Nov. 16, 1998). *See also* C.C. §16C-15.

WHEREAS, the Qualla Housing Authority Board of Commissions possessed the authority “to review and approve requests for additional work and cost that may exceed the dollar limit imposed by Tribal law or policy for projects undertaken by the Tribe’s Infrastructure and Paving program.” C.C. §44-6(g)(2) (repealed).

WHEREAS, currently, both Resolution No. 51 (2018) and the Housing Committee’s powers and duties needs to be updated since the Qualla Housing Authority Board of Commissioners no longer exist.

WHEREAS, on Thursday, April 22, 2021, the Housing Committee recommended submitting this ordinance to Tribal Council. C.C. §117-43.7(c).

NOW THEREFORE BE IT ORDAINED in Council assembled at which a quorum is present that the Tribal Council amends Cherokee Code §117-43.7 as follows in EXHIBIT A.

BE IT FURTHER ORDAINED the Ordinance provisions that 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 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BE IT FINALLY ORDAINED that any other resolution or ordinance in conflict are rescinded and that this ordinance shall become effective when ratified.

*Submitted By: Housing Committee Chairman. Perry Shell and Housing Committee Vice-Chairman Adam Wachacha on behalf of the Housing Committee*

## Cherokee Code

## Chapter 117 – TRIBAL GOVERNMENT

## ARTICLE III – BOARD AND COMMITTEES

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

The Housing Committee shall be a legislative oversight committee. The Housing Committee shall have authority to make recommendations to the Secretary of Housing, Tribal Council and to the Principal Chief and Vice Chief. The Housing Committee shall have the following authority:

- (a) To ensure that housing programs are administered consistent with Tribal law, policy, and procedures.
- (b) To review and approve the Cherokee Housing Division's policies and procedures to manage effectively and deliver housing.
- (c) To recommend to Tribal Council resolutions and ordinances, and amendments thereto, governing housing and housing-related subjects.
- (d) To approve proposed land purchases for housing with final approval being with Tribal Council.
- (e) To provide for the transfer of possessory holdings and improvements from and to the Tribe and Tribal members and their families as authorized by Tribal Council.
- (f) To review and recommend to Tribal Council the Cherokee Housing Division's annual budget.
- (g) To review and approve the Cherokee Housing Division's long-term plan and the Indian Housing Plan which is submitted to Secretary of Housing and Urban Development.
- (h) To review, recommend and approve policies, procedures, rules and other measures to ensure the proper and lawful provision of housing opportunities and compliance with applicable laws, rules, regulations, grants and loans.

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(i) To review and approve requests for additional work and cost that may exceed the dollar limit imposed by Tribal law or policy for the Tribe's Infrastructure and Paving program.

**AMENDED  
PASSED**

Cherokee Council House  
Cherokee, North Carolina  
November 6, 1998

**RESOLUTION NO. 406 (1998)**

**WHEREAS,** Housing Infrastructure Funds (H.I.F.) are a percentile of gaming revenues that have been set aside by the Eastern Band of Cherokee to help enrolled members in acquiring their own homes on trust lands only. H.I.F. can be used for the following purposes: road construction, site preparation, wells/water, septic systems, surveying, hydroseeding, and environmental assessments;

**WHEREAS,** this program is not only for Qualla Housing homes, but for anyone that qualifies; and,

**WHEREAS,** **ELIGIBILITY REQUIREMENTS** would include person who are enrolled members of the Eastern Band of Cherokee Indians; and who live on trust land within the five county area.

**OTHER REQUIREMENTS:**

1. The applicant must submit a complete application which includes proof of land ownership, and an approved loan agreement for purchase of a home from a mortgage company or financial institution, or a signed sales agreement with a manufactured home company.
2. Construction of home or placement of manufactures home must be complete or near completion within six months after site preparation is complete.
3. Site must be cleared of trees and debris before site work can begin. Such clearance should be within three weeks of the grant.
4. Building site must be approved by the Office of Environmental Health and Engineering. (The application paperwork must include the approval notice from the Office of Environmental Health and Engineering.)
5. All applicants will be required to sign a reimbursement agreement in the event that the property is sold or foreclosure of home and manufactured home within five years. If the applicant fails to meet the six month deadline a ten percent penalty for the entire cost of the grant will be assessed for each week over the deadline.
6. All road right-of-ways must be signed and approved and attached to the application.

**GENERAL**

1. a Housing Infrastructure Committee will be set up to review applications and applicants will be notified by mail if application is approved or disapproved. The Housing Infrastructure Committee will be composed of six members, one from the following organizations: Housing Board, DOT, Qualla Housing,

- Social Services, Tribal Utilities, and BIA Realty. Meetings to review applications will be held on an as needed basis at Qualla Housing Authority.
2. The Housing Infrastructure Committee will setup and adopt policies as necessary to ensure that the intent of the Infrastructure Fund are met at all times.
  3. Infrastructure money will be available to qualified applicants for primary housing on a one-time basis only and spending limitations will be set by the Housing Infrastructure Committee.
  4. All work will be contracted out to independent Native American contractors that are listed with the TERO office.
  5. Qualla Housing Authority, which serves as Tribal Housing Entity (T.H.E.) will be appointed by the Tribal Council to serve as a liaison between the Tribe and the Housing Infrastructure Committee to assure that the directive of the Housing Infrastructure Committee are complied with and that money is properly managed.
  6. All Infrastructure money will be kept in a separate account and audited separately. Such Account shall be maintained by Tribal Finance.
  7. There shall be a maximum grant of \$50,000 for contract services for surveying per project.

**COLLECTION FOR FORECLOSURE AND FAILURE TO MEET DEADLINE.**

1. The Attorney General is authorized to commence collection action against the recipient of the grant if the recipient is foreclosed upon, fails to meet the construction deadline, or fails to reimburse the Tribe for one of the previously mentioned events in Cherokee C.F.R. Court or any successor court.
2. The Tribe shall have the burden of proof of showing delinquency and proof of grant given. Such burden shall be to a preponderance of the evidence.
3. The Tribe shall be eligible for interest at the rate of one and one half percent (1.5%) per month and for all court costs.

**NOW, THEREFORE BE IT RESOLVED**, by the Eastern Band of Cherokee Indians, in Annual Council assembled at which a quorum is present, that the Eastern Band of Cherokee Indians does hereby accept this resolution and the attached Application for the Housing Infrastructure Program.

**BE IT FINALLY RESOLVED**, that the Qualla Housing Authority shall be and is hereby authorized to carry out the intent of this resolution.

**Amendments:**

**Change third "WHEREAS" to "NOW THEREFORE BE IT RESOLVED."**

**Change #7 under "General" to read "There shall be a minimum of \$50,000 for contract services for surveying per annum."**

**Add "NOW THEREFORE BE IT STILL FURTHER RESOLVED, the Eastern Band of Cherokee Indians authorizes:" after #7 under "General."**

**Change "NOW, THEREFORE BE IT RESOLVED" to "NOW, BE IT FINALLY RESOLVED."**

Date application taken: \_\_\_\_\_

Date Application placed on waiting list: \_\_\_\_\_

### APPLICATION FOR HOUSING INFRASTRUCTURE PROGRAM

#### Applicant Information

Name: \_\_\_\_\_ Enrollment No. \_\_\_\_\_  
 Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Date of Birth: \_\_\_\_\_ Social Security No: \_\_\_\_\_  
 Employer: \_\_\_\_\_ Length of Employment \_\_\_\_\_  
 Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Title: \_\_\_\_\_ Salary: \_\_\_\_\_

Spouse/Other Name \_\_\_\_\_ Enrollment No. \_\_\_\_\_  
 Date of Birth: \_\_\_\_\_ Social Security No: \_\_\_\_\_  
 Employer: \_\_\_\_\_ Length of Employment \_\_\_\_\_  
 Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Title: \_\_\_\_\_ Salary: \_\_\_\_\_

Are you currently residing on or off the reservation?     No     Yes

Years at present home: \_\_\_\_\_

Do you own land on the reservation?     No     Yes

If yes a copy of the Possessory holding must be attached to the application.

**\*\*\*\* Application will not be complete until this information is attached to application\*\*\*\***

Do you have Road Right of Way to selected site?     No     Yes

If yes a copy of the Right of Way must be attached to the application.

**\*\*\*\* Application will not be complete until this information is attached to application\*\*\*\***

Has land been approved by Office of Environmental Health and Engineering?     No     Yes

If yes a copy of the approval must be attached to the application.

**\*\*\*\* Application will not be complete until this information is attached to application\*\*\*\***

Is selected site clear of trees and debris?     No     Yes

If yes a copy of the approval by QHA must be attached to the application.

**\*\*\*\* Application will not be complete until this information is attached to application\*\*\*\***

Do you have an approved loan agreement for the purchase of a home from a mortgage company, financial institution or a signed sales agreement with a manufactured housing company?

Yes       No

If yes a copy of the agreement must be attached to the application.

\*\*\*\* Application will not be complete until this information is attached to application\*\*\*\*

**Applicant Certification:**

We understand that the above information is being collected in determining eligibility for the Housing Infrastructure Program. We certify the statements made in this application are true and complete to the best of my/our knowledge and belief. We understand that this application is not complete until all attachments have been received. The date that all attachments have been received will be the date application posted on the waiting list. We also understand that should we sell the property or the property is foreclosed upon within the first five years the Housing Infrastructure fund must be repaid. (See attached Promissory Note)

Signature of Head: \_\_\_\_\_

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

Signature of Spouse/Other: \_\_\_\_\_

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



The attached Resolution/Ordinance No. 406 dated NOV 06 1998 was Passed () Killed ( ) and ratified in open Council on NOV 06 1998 by 63.5 voting for the act and 0 members voting against it as follows:

VOTE	FOR.	AGAINST	ABSTAIN	ABSENT
Teresa McCoy	✓			
Mary Ann Thompson				✓
Jess Murphy				✓
Bob Blankenship	✓			
Alan B. Ensley	✓			
Jim Bowman	✓			
Dan McCoy				✓
Glenda Sanders	✓			
Larry Blythe	✓			
Bob Long	✓			
Marie Junaluska				✓
Marion Teesateskie	✓			
TOTAL	63.5	0	0	36.5

[Signature]  
 TRIBAL COUNCIL CHAIRMAN

[Signature]  
 TRIBAL COUNCIL ENGLISH CLERK

[Signature]  
 PRINCIPAL CHIEF

APPROVED () VETOED ( )

VETO UPHOLD ( ) VETO DENIED ( )

DATE 11/16/98

I hereby certify that the foregoing act of the Council was duly Passed ( ) Killed ( ) and ratified in open Council after the same has been interpreted by the Official Interpreter and has been fully and freely discussed.

In testimony, whereof, I have hereunto set my hand and affixed the seal of the said Band of Indians. Superintendent, Cherokee Indian Agency.

INTERPRETED ( ) [Signature]  
 OMITTED

( ) \_\_\_\_\_  
 INTERPRETED

PASSED

CHEROKEE COUNCIL HOUSE  
CHEROKEE, NORTH CAROLINA

OCT 31 2019

DATE

RESOLUTION NO. 51 (2018)

WHEREAS, the Charter and Governing Document authorizes and empowers the Eastern Band of Cherokee Indians (EBCI) Tribal Council to adopt rules and regulations for the general government of the Tribe. Charter and Governing Document, sect. 23 (Sept. 5, 1995).

WHEREAS, the EBCI Tribal Council possess the legislative authority. C.C. §117-10.

WHEREAS, pursuant to C.C. §16C-15, the EBCI created the Housing Infrastructure Funds (HIF) Program. Eastern Band of Cherokee Indians Tribal Council Resolution No. 406 (Nov. 16, 1998).

WHEREAS, since the HIF Program's establishment in 1998, the EBCI amended program requirements to meeting the tribal members needs, most recently Resolution No. 274 (2018).

WHEREAS, one Qualla Housing Authority Board of Commissioner's duty is "to review and approve requests for additional work and cost that may exceed the dollar limit imposed by Tribal law or policy for projects undertaken by the Tribe's Infrastructure and Paving program", HIF program. C.C. §44-6 (g)(2) *see* Ordinance No. 1 (2017).

WHEREAS, there is a need to amend the current HIF program requirements.

NOW THEREFORE BE IT RESOLVED by the Eastern Band of Cherokee Indians in Council assembled, at which a quorum is present, the Tribal Council adopts the HIF program requirements set out in EXHIBIT A.

BE IT FURTHER RESOLVED Resolution No. 274 (2018) is rescinded.

BE IT STILL FURTHER RESOLVED that the Qualla Housing Authority Board of Commissioners and Housing Community Development shall carry out the intent of this resolution.

BE IT FINALLY RESOLVED this resolution shall become effective upon ratification.

Submitted by: QHA Board of Commissioners

**HOUSING INFRASTRUCTURE FUNDS  
GUIDELINES**

**General:**

1. The Housing Infrastructure funds are a percentage of gaming revenue that have been set aside by the Eastern Band of Cherokee Indians to help meet the needs of enrolled members for housing and help them develop their own home sites on trust land
2. The program shall be administered by the Housing and Community Development (HCD) program under the supervision of the Secretary of Housing. The program is for any tribal member who qualifies.
3. HCD is authorized to draw on all available resources of other federal and tribal agencies, including Tribal Reality, the Cherokee Indian Hospital, the Cherokee Department of Transportation, Tribal Utilities, and those agencies are authorized and directed to provide assistance as needed by HCD.

**Purpose:**

HIF Program funds may be used for the following purposes:

1. Environmental assessments,
  2. Surveying,
  3. Road construction,
  4. Site preparation,
  5. Foundations,
    - a. Repair concrete slabs cracking or settlement under existing homes by mud jacking or other suitable means, provided the cracking and settlement have caused or will cause substantial damage to the foundation and the home,
- or

1 b. Moving and setting up trailers, slabs/foundations (to include underpinning  
2 with solid block and basement walls), repair of foundations if no other  
3 funds are available, and retaining walls if necessary.

4 6. Wells or water supplies,

5 7. Septic systems,

6 8. Hydro seeding or other erosion control,

7 9. Securing a surveyed and recorded right-of-way to provide feasible access to a  
8 home site, or

9 10. Other infrastructure needs as determined by HCD with approval by the QHA  
10 Board prior to commencing the work.

11  
12 **Eligibility:**

13 1. To be eligible for the HIF Program, an individual applicant must demonstrate the  
14 following:

15 a. Is an enrolled member of the Eastern Band of Cherokee Indians,

16 b. Neither the parcel nor the individual applicant ~~H~~has ~~not~~ received HIF  
17 Program funding in the past,

18 c. Has a home site on land held in trust for the Eastern Band of Cherokee  
19 Indians, as defined in C.C. §7-2(a), including a recognized possessory  
20 interest, or an approved residential lease for not less than 10 years, and an  
21 approved right-of-way to the property, and

22 d. The home site can be developed safely and in compliance with applicable  
23 regulations, as determined by the HIF Program engineer or site inspection  
24 committee.

25 2. All new homes and new apartments developed by Qualla Housing Authority shall  
26 also be eligible for infrastructure assistance under the HIF Program.

27 3. HIF Program funds shall be available for erosion at existing homes or home sites,  
28 if the eligibility requirements above are met.

29 4. Other requirements include:  
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- 1 a. The applicant must ensure that the home site is cleared of trees and debris  
2 before infrastructure work begins.
- 3 b. The applicant must begin construction of a home or placement of a  
4 manufactured home within six month, and construction must be complete  
5 within one year, after the infrastructure work is completed. If the applicant  
6 fails to meet these deadlines, then a ten percent penalty for the cost of the  
7 grant shall be assessed for each month past the deadline, unless waived by  
8 the QHA Board for good cause shown.
- 9 c. The applicant shall be liable for reimbursement of the full grant amount if  
10 the real property or the home is sold or foreclosed within five years of  
11 completion.

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13 **Miscellaneous:**

- 14 1. The HCD is authorized to establish reasonable regulations consistent with this  
15 resolution to implement the HIF Program, subject to the QHA Board's approval.
- 16 2. The maximum grant under the HIF Program shall be up to sixty thousand dollars  
17 (\$60,000) per home for site work including driveway, foundation, guttering, and  
18 final grading. ~~Ten thousand dollars (\$10,000) shall be for the foundation.~~ The  
19 applicant bears the ~~foundation~~ cost that exceeds ~~ten~~ sixty thousand dollars (~~\$1~~  
20 60,000). ~~The remaining fifty thousand dollars (\$50,000) shall be for~~  
21 ~~infrastructure.~~ The QHA Board shall approve any amount over ~~the foundation~~  
22 ~~limit or the total~~ infrastructure limit ~~before work begins.~~ If the QHA Board does  
23 not approve the increase, the applicant shall pay the difference prior to work  
24 beginning. The ~~foundation or total~~ infrastructure amount may be increased  
25 annually by HCD to cover the costs of inflation, and may be exceeded with  
26 approval of the QHA Board for exceptional circumstances on a case-by-case  
27 basis. Exceptional circumstance means, but is not limited to, concrete cracking or  
28 settlement of existing foundations.
- 29 3. All HIF Program funds will be kept in a separate account and audited separately.  
30 Tribal Finance shall maintain all HIF Program accounts. In preparing the annual

1 budget, HCD shall include line items to cover contract services for surveying of  
2 boundary lines for land divisions and house sites, a minimum of \$50,000 per year.

3 4. The Housing and Community Development program is authorized to file a civil  
4 action against the applicant in the Cherokee Court, if the applicant violates the  
5 HIF Program agreement, regulations, or the terms of this resolution. The burden  
6 of proof in any such case shall be by a preponderance of the evidence. If HCD  
7 prevails in such a lawsuit, the applicant shall be liable for interest at the rate of  
8 one and one-half percent (1.5%) per month and attorneys fees.

9 5. Tribal resources shall complete all infrastructure sites. In the event there are no  
10 Tribal resources available, TERO contracts shall be used on a rotating basis.

11 6. The Housing and Community Development Program shall keep records regarding  
12 the parcels that received infrastructure assistance.

The attached Resolution/Ordinance No. 51 dated OCTOBER 31, 2019 was

**PASSED ( X )**

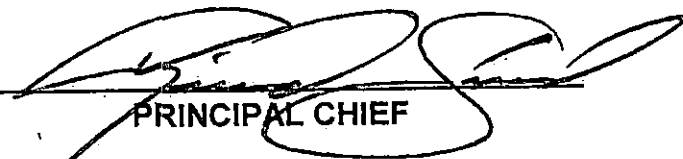
**KILLED ( )**

and ratified in open Council on OCTOBER 31, 2019 by 93 voting for the act and 0 members voting against it as follows:

VOTE	FOR	AGAINST	ABSTAIN	ABSENT
Richard French	X			
Perry Shell				X
Boyd Owle	X			
Bucky Brown	X			
Tom Wahnetah	X			
David Wolfe	X			
Adam Wachacha	X			
Bo Crowe	X			
Chelsea Saunooke	X			
Albert Rose	X			
Dike Sneed	X			
Tommye Saunooke	X			
	93	0	0	7

  
 \_\_\_\_\_  
 TRIBAL COUNCIL CHAIRMAN

  
 \_\_\_\_\_  
 ENGLISH CLERK

  
 \_\_\_\_\_  
 PRINCIPAL CHIEF

VETO UPHELD ( ) VETO DENIED ( )

APPROVED (  ) VETOED ( )

DATE: 11/18/19

I hereby certify that the foregoing act of the Council was duly:

**PASSED ( )**

**KILLED ( )**

and ratified in open Council after the same has been interpreted by the Official Interpreter and has been fully and freely discussed.

\_\_\_\_\_  
 INTERPRETED ( )

\_\_\_\_\_  
 OMITTED ( )