

1 **TABLED**
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**CHEROKEE COUNCIL HOUSE
CHEROKEE NORTH, CAROLINA**

Date: AUG 04 2022

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5 **ORDINANCE No. 368 (2022)**
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7
8 *An ordinance to amend C.C. § 117-45 governing*
9 *Standards of Ethical Conduct for Tribal Officials*

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11 WHEREAS, the Eastern Band of Cherokee Indians adopted the Standards of Ethical Conduct
12 for Tribal Officials as codified in Cherokee Code § 117-45; and

13
14 WHEREAS, the Office of Internal Audit and Ethics and the Audit and Ethics Committee have
15 the authority and responsibility for the enforcement and compliance of the
16 Standards of Ethical conduct; and

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18 WHEREAS, the Ethics Review Committee, a subcommittee of the Audit and Ethics
19 Committee, has reviewed and proposed revisions to the Standards of Ethical
20 Conduct; and

21
22 WHEREAS, the Audit and Ethics Committee recommends amending C.C. §117-45 to allow
23 for more effective enforcement and compliance of the Standards of Ethical
24 Conduct.

25
26 NOW THEREFORE BE IT ORDAINED by the Eastern Band of Cherokee Indians in Tribal
27 Council assembled, at which a quorum is present, that C.C. § 117-45 shall be
28 amended to read as follows:
29

30 **Sec. 117-45. Standards of ethical conduct.**

31 **Sec. 117-45.1. Definitions.**

32 (a) For purposes of this section, the following terms have the meanings defined below:

33 (1) *Tribal officials.* Any person who is:

- 34 a. A Tribal officer as defined in Section 1 of the Charter and Governing Document;
35 b. A member of the Cherokee School Board as defined in C.C. Section 115-8;
36 c. Serving as a member of an authority, board, committee, or commission, appointed by
37 Tribal Council, the Executive Committee or Principal Chief, and who is subject to
38 removal by the appointing authority; or
39 d. Appointed by Tribal Council or the Executive Committee or Principal Chief, and who
40 is subject to removal by the appointing authority, to carry out actions, provide
41 guidance, or assistance to the Tribal Council, the Executive Committee or to a member
42 of the Executive Committee.

43 (2) *Tribal resources.* Refers to instruments belonging to, held by, or received by the EBCI
44 utilized for the economic, social, and political development of the EBCI as a

1 community; and the Tribal offices and programs of the EBCI. Such instruments may
2 include but are not limited to the following:

- 3
- 4 a. Land, physical property, and services owned, provided, distributed, administered
5 or allocated by Tribal officials that have been paid for, subsidized, or otherwise
6 acquired by the offices and agencies of the EBCI;
 - 7 b. Funds and other financial assets of the EBCI; and
 - 8 c. Other Tribal materials made available to Tribal officials while acting in an official
9 capacity, which includes documentation, communications, and other records made
10 available to a Tribal official.

11 (3) *Personal interest.* Means any interest in which there exists a likelihood for direct or
12 indirect gain of any kind, including, but not limited to, employment contracts, benefits,
13 salaries, funding, or ownership or investment held by a Tribal official, employee, or
14 immediate family member of Tribal officials.

15 (4) *Conflict of interest.* A conflict of interest shall be deemed to arise when the elected or
16 appointed official, or executive staff employee or any member of their immediate
17 family, or an organization or firm which employs such official, executive staff
18 employee or family member has a financial or other interest in the firm or person
19 selected for the contract or grant award.

20 (5) *Immediate family* shall be defined as spouse, parent, child or brother or sister.

21 (6) *EBCI* refers to the Eastern Band of Cherokee Indians and Tribe.

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23 **Sec. 117-45.2. Purpose and applicability.**

24 (a) It is the policy of the Eastern Band of Cherokee Indians that high moral and ethical
25 standards among the elected officials, appointed officials, and executive staff employees are
26 necessary in order to eliminate conflicts of interest in Tribal offices, improve standards of
27 Tribal service, preserve the sacred public trust, and promote and strengthen the faith and
28 confidence of the members of the EBCI in their government. This Code of Ethics is to
29 provide a mechanism whereby the Tribe may hold such officials accountable for their
30 conduct in performing the duties and responsibilities of their Tribal office.

31 **Sec. 117-45.3. Code of Ethics.**

32 (a) No Tribal official of the Eastern Band of Cherokee Indians shall participate in the selection
33 or in the award or administration of a contract or grant award, if a conflict of interest, real or
34 apparent, shall be involved.

35 (b) No Tribal official or any member of their immediate family shall solicit or accept gratuities,
36 favors or anything of monetary value from contractors, potential contractors or
37 subcontractors who are contracting to perform services or sell goods or property to the Tribe
38 or a Tribal program.

39 (c) No Tribal official, directly or through a business entity in which the Tribal official has a
40 personal interest, shall enter into any contract for services or goods with any Tribal entity,
41 enterprise, or program for the purpose of either receiving or providing services or goods.
42 This provision shall not apply to such persons qualifying for housing benefits from the
43 Qualla Housing Authority or for medical benefits from the Indian Health Service or other
44 programs available to all Tribal members.

1 (d) The following represents the very minimum standards of conduct on the part of Tribal
2 officials important to ensure ethical behavior and maintenance of public trust:

3 (1) Tribal officials of the EBCI shall treat service to the EBCI as a sacred public trust with
4 fiduciary responsibility to the EBCI, which requires upholding and acting in
5 accordance with the laws of the EBCI and engaging in the proper governance of the
6 EBCI in a manner, which is placed above personal and private gain.

7 (2) Tribal officials of the EBCI shall not allow financial interests to conflict with the
8 conscientious performance of obligations inherent in fulfilling the duties and
9 responsibilities associated with their respective offices.

10 (3) Tribal officials of the EBCI shall protect and conserve Tribal resources and ensure the
11 appropriate use of Tribal resources falling under the scope of the office of the Tribal
12 official.

13 (4) Tribal officials of the EBCI shall provide every enrolled member a time to be heard on
14 a Tribal issue that falls under the scope of the Tribal official's duties. This paragraph
15 shall not supersede C.C. Section 117-16.

16 (5) Tribal officials of the EBCI shall not use prestige of the office to advance personal
17 interests of others or themselves.

18 (6) Tribal officials of the EBCI shall disclose instances when they believe there has been
19 fraud, waste, abuse, corruption, or violations of this chapter to the Office of Internal
20 Audit and Ethics.

21 (7) Tribal officials of the EBCI shall respect and honor the customs and traditions of the
22 EBCI.

23 (8) Tribal officials of the EBCI shall abide by the laws of any sovereign jurisdiction in
24 which they are present. Tribal officials of the EBCI shall disclose any misdemeanor or
25 felony charges and/or convictions that occur in any jurisdiction while in office to the
26 Office of Internal Audit.

27 (9) Any gift, donation, or contribution received or provided by a Tribal official, must be
28 reported by the official who received or provided the gift, donation, or contribution to
29 the Office of Internal Audit and Ethics in accordance with that office's rules of
30 procedure.

31 (10) Tribal officials of the EBCI shall not, act individually, jointly or through another,
32 threaten, intimidate, or discipline any person as reprisal for any legitimate action taken
33 by the person.

34 (11) Tribal officials of the EBCI shall not offer, solicit, or accept, directly or indirectly,
35 anything of value if the gift could reasonably be expected to influence the vote, official
36 actions, or judgment of, or for, the official or could reasonably be considered a reward
37 for any official action or inaction.

38 (12) Tribal officials of the EBCI shall not withhold materials or information from the public
39 pertaining to those items discussed in closed session unless such materials or
40 information disclosed in closed session are deemed private in accordance with Chapter
41 132 of the Cherokee Code.

42 (13) No Tribal official of the EBCI shall take any official action or participate in a decision
43 with respect to a matter if it will have a direct and predictable effect on the financial
44 interest, personal interest, or present a conflict of interest for the official or employee
45 or his or her immediate family member. Any official in such situation shall recuse

1 himself or herself from participating in a discussion and/or vote on the matter giving
2 rise to such conflict.

3 (14) Tribal officials of the EBCI may participate in private, public, civic, and/or charitable
4 activities provided such activities do not detract from the dignity of the office or
5 interfere with the performance of official duties.

6 (15) Tribal officials shall maintain or enhance the honesty and integrity of their respective
7 offices; and safeguard the reputation of the EBCI as a whole.

8 (16) Tribal officials shall protect and enhance the environmental and cultural resources,
9 whether natural or man-made, of the EBCI to ensure the security and prosperity of
10 future generations.

11 ~~(e) Failure to meet the minimum requirements described in this section may constitute a~~
12 ~~violation of this Code of Ethics as determined by the Office of Internal Audit as outlined~~
13 ~~below, until such time as the Office of Government Ethics is established.~~

14 ~~(f) Any Tribal official who violates Cherokee Code, Chapter 117, Article IV, Section 117-45,~~
15 ~~Standards of Ethical Conduct, shall be guilty of a misdemeanor and may be punished by the~~
16 ~~Cherokee Court or any successor court, by a fine of no more than \$5,000.00 or 12 months'~~
17 ~~confinement, or both.~~

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19 **Sec. 117-45.4. Violation Consequences.**

20 ~~(a) Failure to meet the minimum requirements described in this section may constitute a~~
21 ~~violation of this Code of Ethics as determined by the Office of Internal Audit and Ethics as~~
22 ~~outlined below, until such time as the Office of Government Ethics is established.~~

23 ~~(b) A violation of Sec. 117-45.3 as determined at the discretion of the Office of Internal Audit~~
24 ~~and Ethics is subject to an administrative fine not to exceed \$5,000.~~

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26 **Sec. 117-45.5. Cooling Off Period.**

27 ~~(a) Tribal officials shall be ineligible for a paid appointment of the Executive Office, the~~
28 ~~Tribal Council or a committee, authority, board, or commission for a period of one~~
29 ~~year after leaving their tribal position.~~

30 ~~(b) Tribal officials shall be ineligible to contract with the Tribe for the provision of goods~~
31 ~~or services for a period of one year after leaving their tribal position. This prohibition~~
32 ~~does not apply to employment by the Tribe or its entities for positions obtained~~
33 ~~through the ordinary processes of hiring.~~

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35 BE IT FINALLY ORDAINED that all ordinances that are inconsistent with this ordinance are
36 rescinded, and that this ordinance shall become effective when ratified by the
37 Principal Chief.

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40 *Submitted by Sharon Blankenship, Office of Internal Audit and Ethics, on behalf of the Audit and*
41 *Ethics Committee.*