

TABLED

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

Date: FEB 02 2023

ORDINANCE NO. 506 (2023)

An ordinance to amend C.C. Chapter 117 to provide certain uniform requirements for boards, commissions and committees for which Tribal Council confirms appointments.

WHEREAS, the Eastern Band of Cherokee Indians has the sovereign authority to make laws for the general governance of the Tribe. Charter and Governing Document § 23; C.C. § 117-10; and

WHEREAS, the Tribe has created a variety of boards, committees and commissions that may be advisory in nature or that may have important regulatory functions and daily impact on the lives of Tribal citizens; and

WHEREAS, the Tribe has created these boards, committees and commissions at different times to respond to different needs, but did not create them with a uniform vision or with consistent expressions of authority and responsibility; and

WHEREAS, the lack of consistent and uniform establishment and treatment of boards, committees and commissions in Tribal law promotes confusion and argument as to their authority and responsibility; and

WHEREAS, Tribal law governing boards, committees and commissions should be amended to provide, where appropriate, uniform treatment of these entities and consistent expressions of duties regarding reporting, fiscal management, and appointment and removal of personnel.

NOW THEREFORE BE IT ORDAINED by the Tribal Council of the Eastern Band of Cherokee Indians in Council assembled, at which a quorum is present, that Cherokee Code § 117-44.1 shall be amended to read as follows, and Chapter 117 shall be amended to add a new Article, to be designated as Article III-B, to read as follows:

Sec. 117-44.1. Purpose and applicability.

Confirming or approving appointments.

- (a) The hearing rules shall apply to Tribal Council when considering a judicial, commission, committee, or board confirmation.
- (b) Upon completing a confirmation hearing the Tribal Council shall determine whether to confirm or reject the appointment.

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2 (1) When Tribal Council confirms the appointment, the Tribal Council shall submit a
3 resolution at a Tribal Council session.
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5 (2) When Tribal Council rejects the appointment, the Chairman shall notify the Principal
6 Chief in writing with in five calendar days of the hearing.
7
8 (c) These rules shall be construed in accordance with Charter and Governing Document and
9 the sections of the Cherokee Code, and the resolutions, enumerated in this subsection,
10 and these rules shall apply to the entities enumerated herein; C.C. Section 7-11 (Judicial
11 Branch) C.C. Section 16-2.01(b) (Tribal Gaming Commission); C.C. Section 16A-3(b)
12 (Tribal Casino Gaming Enterprise); C.C. Section 17-21(a) (EBCI Cannabis Control
13 Board); C.C. Sec. 17-10 (EBCI Cannabis Advisory Commission); C.C. Section 18B-
14 200(b) (Tribal Alcoholic Beverage Control Commission); C.C. Section 55B-3.1(B)(1)
15 (Kituwah Economic Development Board); C.C. Section 55B-3.1 (Qualla Enterprises,
16 LLC Board); C.C. Section 92-5 (Tribal Employment Rights Commission); C.C. Section
17 117-41(a) (Investment Committee); C.C. Section 117-109 (5) (Audit and Ethics
18 Committee); C.C. Section 120-4 (Cherokee Police Commission); C.C. Section 130A-8
19 (EBCI PHHS Advisory Board); C.C. Section 130B-3(b) (CIHA Governing Board);
20 Resolution No. 298 (2004) (Balsam West); Resolution No. 703 (2011) (Sequoyah
21 National Golf Board); Resolution No. 177 (2018) (Beloved Women Committee);
22 Resolution No. 54 (2019) (Harrah's Cherokee Tribal Scholarship Fund Committee); and
23 other applicable laws of the Eastern and of Cherokee Indians.
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25

26 **Sec. 117-44.10- 117-44.49 – Reserved.**
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28 **Article III-B. – Uniform provisions for boards, commissions and committees.**
29

30 **Sec. 117-44.50 – Application, definition and effective date.**
31

- 32 (a) This Article applies to every board, commission, committee and enterprise to which
33 the appointment confirmation rules expressed in Article III-A of this Chapter also
34 apply.
35
36 (b) In this Article, the term “covered Board” means every board, commission, committee
37 and enterprise to which this Article applies.
38
39 (c) This Article is effective on and after March 1, 2023.
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41 **Sec. 117-44.52 – Purpose.**
42

43 The purpose of this Article is to impose uniform requirements for certain aspects of
44 governance of covered Boards by Tribal Council and the Executive Branch, and certain
45 requirements for reporting and management tasks by covered Board. The Tribe takes notice that it
46 has created the covered Boards at different times to address different needs, and the Tribe has not

1 been consistent or uniform in the language it has used to express the authorities and responsibilities
2 of covered Boards. This Article shall be construed for the purpose of bringing uniformity and
3 consistent treatment to the matters addressed herein.

4
5 **Sec. 117-44.53 – Effect on inconsistent or conflicting ordinances.**

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7 Any ordinance or resolution in effect before March 1, 2023, or any provision thereof, that
8 conflicts with or is inconsistent with the provisions of this Article, shall be severable and the
9 conflicting or inconsistent provision of the prior ordinance or resolution shall be severed from
10 the whole and repealed as of March 1, 2023, and the provisions of this Article shall supersede the
11 severed portion.

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13
14 **Sec. 117-44.54 – Nomination and confirmation of members.**

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16 (a) All appointments to covered Boards by the Principal Chief or by Tribal Council shall
17 be made by use of the nomination and confirmation process provided in Article III-A
18 of this Chapter.

19
20 (b) Vacancies on covered Boards shall be filled using the same process of nomination and
21 confirmation as for original appointments.

22
23 (c) A member of a covered Board whose term has expired or whose term will expire within
24 the next-succeeding sixty day period may be re-nominated by the respective appointing
25 authority and confirmed by Tribal Council by resolution without a confirmation
26 hearing, in Tribal Council’s discretion.

27
28 (d) All appointments to covered Boards shall be approved by Tribal Council resolution,
29 and among other details, shall express the start and end dates of the appointment.

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31 **Sec. 117-44.54 – Removal.**

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33 The members of covered Boards to which this Article applies shall be subject to removal
34 for cause. Removal for cause shall be initiated by the Principal Chief by resolution submitted to
35 Tribal Council. Tribal Council shall consider the resolution and shall make the final decision as
36 to removal.

37
38 **Sec. 117-44.55 – Mandatory reporting.**

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40 The chairperson and vice chairperson, and executive director if there is one, of each
41 covered Board shall regularly appear in person before Tribal Council, and the Principal Chief, and
42 provide reports and updates as to the matters that are within the authority of the respective covered
43 Board, and as to matters that may be requested by Tribal Council or the Principal Chief. Tribal
44 Council and the Principal Chief may require separate appearances and reporting or may by
45 agreement combine their efforts so that appearances and reports are required to be given to only
46 one body. In this section, “regularly” shall mean not less than quarterly each calendar year;

1 provided, however, that the Principal Chief or Tribal Council may demand more frequent
2 appearances and reporting, in their respective discretion.

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4 **Sec. 117-44.56 – Budget, fiscal management, audits.**

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6 (a) Each covered Board shall be allocated funds by Tribal Council pursuant to the Tribal
7 budgeting process applicable to all other Tribal divisions and programs.
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9 (b) No later than May 1, 2023, each covered Board shall adopt a fiscal management policy
10 that is the same as or substantially equivalent to the Tribe’s Fiscal Management
11 Manual. Substantial equivalency shall be determined by the Secretary of the Treasury.
12 Each time a covered Board’s fiscal management policy is amended or a new fiscal
13 management policy is adopted by a covered Board, that covered Board shall provide a
14 copy of the amended or new policy to the Tribal Council, Principal Chief, and the
15 Secretary of the Treasury within 10 days of such amendment or adoption. The
16 requirements in this subsection do not apply to covered Boards that are required by
17 existing ordinance to comply with and be subject to the Tribe’s Fiscal Management
18 Manual.
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20 (c) Each covered Board shall undergo a financial audit of equivalent function and scope,
21 and on the same schedule, as the Tribe’s own annual auditing process, and shall
22 coordinate the performance of such financial audits with the Secretary of the Treasury,
23 and shall keep the Secretary of the Treasury informed regarding the progress of such
24 financial audits. Completed financial audits shall be provided to Tribal Council, the
25 Principal Chief and the Secretary of the Treasury within 10 days of the date the covered
26 Board receives the completed audit. If a completed financial audit is not available at
27 the appropriate interval each year, the covered Board shall so inform Tribal Council,
28 the Principal Chief and the Tribal Treasurer, and shall provide financial information as
29 the Secretary of the Treasury may request.
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32 BE IT FINALLY ORDAINED that this ordinance shall be effective upon ratification by the
33 Principal Chief and all prior ordinances or portions thereof that are inconsistent
34 with this ordinance are rescinded.
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39 *Submitted by the Community Club Council*
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