

# TABLED

CHEROKEE COUNCIL HOUSE  
CHEROKEE, NORTH CAROLINA

AUG 03 2023

DATE

ORDINANCE NO. 691 (2023)

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7 WHEREAS, the Eastern Band of Cherokee Indians established the Tribal Employment Rights Office  
8 (hereinafter TERO), under Cherokee Code Section 92-2, to promote growth and increase  
9 contracting opportunities for Native American owned businesses; and

10 WHEREAS, the Eastern Band of Cherokee Indians also established the TERO, under Cherokee Code Section  
11 95-11, to increase employment of Indian workers and to eradicate discrimination against Indians;  
12 and

13 WHEREAS, it has been determined by the Tribal Employment Rights Commission (hereinafter TERC) that  
14 amendments must be made to Cherokee Code Chapter 95, Article II, *Employment Preference*  
15 *Law*, to remove conflicting and outdated provisions from Chapter 95; and

16 WHEREAS, current Cherokee Code Section 95-15., contains adverse provisions to the more recently adopted  
17 Chapter 92 which make it impossible to comply with both Chapters and if followed as it currently  
18 stands would create a separate TERO Commission; and

19 WHEREAS, there is a need to strike Cherokee Code Section 95-15 in its entirety and replace it with the same  
20 provision established more recently in Cherokee Code Ch.92; and

21 WHEREAS, the amendment will eliminate the adverse provisions, provide clarity, and allow TERC to comply  
22 with Ch.95 as well as Ch.92; and

23 NOW THEREFORE BE IT ORDAINED, by the Eastern Band of Cherokee Indians, in Tribal Council assembled, at which  
24 a quorum is present, that Cherokee Code Section 95-15 and Chapter 92 shall be amended to read  
25 as follows (In Exhibit A)

26 BE IT FURTHER ORDAINED that all ordinances or resolutions that are inconsistent with this ordinance are  
27 hereby rescinded.

28 BE IT FINALLY ORDAINED that this ordinance shall become effective upon ratification by the Principal  
29 Chief,

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31 *Submitted by the Tribal Employment Rights (TERC).*  
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EXHIBIT A

1 **Sec. 95-15. ~~Commission; members; compensation; quorum.~~ Tribal Employment Rights**

2 **Commission.**

- 3 (a) The Tribal Employment Rights Commission is hereby established.
- 4 (b) ~~The Commission shall be composed of seven members of the Eastern Band of Cherokee Indians appointed by~~  
5 ~~the Tribal Council, two of whom shall be Council Members, three of whom shall be EBCI Tribal members~~  
6 ~~nominated by the Tribal Planning Board, and two of whom shall be nominated by the Principal Chief. The~~  
7 ~~members shall be the same individuals as are appointed to the Tribal Business Preference Commission. The~~  
8 ~~Commissioners shall serve until replaced.~~

9 The Commission shall have five members, all of whom shall be members of the Tribe chosen to serve as  
10 follows:

- 11 (1) Two members shall be appointed by the Principal Chief to serve four-year terms concurrently with the  
12 term of the Principal Chief who appoints them;
- 13 (2) Two members shall be appointed by the Tribal Council to serve two-year terms;
- 14 (3) One member shall be appointed by the Tribal Planning Board to serve three-year terms; and

- 15
- 16 (c) ~~Members of the Commission shall be entitled to receive, upon presentation of proper vouchers, such~~  
17 ~~mileage and per diem payments as are in effect for Commissioners of the Tribe or for committees or officers~~  
18 ~~of the Tribal Council and such other compensation as the Tribal Council may appropriate. Elected officials,~~  
19 ~~Executive staff and Program Directors may not serve as Commissioners during their tenure in those offices.~~

- 20 (d) ~~A majority of the Commission shall constitute a quorum to transact business. When a vacancy occurs in the~~  
21 ~~Commission, the remaining members may exercise all the powers of the Commission until the vacancy is~~  
22 ~~filled.~~

23 Commissioners may not serve more than two consecutive terms.

24 (1) Commissioners shall serve until their terms expire and they are replaced by their appointing authority,  
25 until they resign, or if appointed as interim, by their appointing authority when a vacancy arises until  
26 replaced by their duly appointed successor. Commissioners may only be replaced by their appointing  
27 authority.

28 (2) TERO certified economic entities are not eligible for appointment to the Board. If a commissioner  
29 subsequently becomes a TERO certified economic entity that Commissioner is no long eligible to serve  
30 on the Board and must be replaced by the appointing authority. Commissioners in office at the  
31 effective date of this article are entitled to complete their current term despite their status as TERO  
32 certified economic entities.

- 33 (e) The Commissioners shall, by majority vote, choose one of their own members to serve as chairperson.

- 34 (f) Commissioners shall be paid a monthly amount at the first of each month to be established by the Principal  
35 Chief and Tribal Council in the annual budget process.

- 36 (g) The Commission shall meet at least once a month and minutes of each meeting shall be maintained.

- 37 (h) The Commission shall act by majority vote. A majority of the Commission constitutes a quorum to transact  
38 business. If a commissioner leaves a meeting and his absence destroys the quorum, then no business may be  
39 transacted until a quorum is re-established. When a position on the Commission is vacant, the remaining  
40 members may exercise the powers of the Commission until the vacancy is filled.

- 41 (i) Commission meetings shall be open to the public. However, the Commission may meet in executive session if  
42 the Commission determines such a session is necessary to protect the confidences of the parties or to serve  
43 the best interests of the Tribe.

1 (j) Commissioners may be removed for cause by their appointing authority. Cause includes, but is not limited to,  
2 being absent for three consecutive meetings without reasonable excuse.

3 **Sec. 92-5. - Tribal Employment Rights Commission.**

4 (a) There is hereby created the Tribal Employment Rights Commission.

5 (b) The Commission shall have five members, all of whom shall be members of the Tribe chosen to serve as  
6 follows:

7 (1) Two members shall be appointed by the Principal Chief to serve four-year terms concurrently with  
8 the term of the Principal Chief who appoints them;

9 (2) Two members shall be appointed by the Tribal Council to serve two-year terms;

10 (3) One member shall be appointed by the Tribal Planning Board to serve three-year terms; and

11 (c) Elected officials, Executive staff and Program Directors may not serve as Commissioners during their tenure  
12 in those offices.

13 (d) Commissioners may not serve more than two consecutive terms.

14 (1) Commissioners shall serve until their terms expire and they are replaced by their appointing  
15 authority, until they resign, or if appointed as interim, by their appointing authority when a vacancy arises until  
16 replaced by their duly appointed successor. Commissioners may only be replaced by their appointing authority.

17 (2) TERO certified economic entities are not eligible for appointment to the Board. If a Commissioner  
18 subsequently becomes a TERO certified economic entity that Commissioner is no longer eligible to  
19 serve on the Board and must be replaced by the appointing authority.

20 (e) The Commissioners shall, by majority vote, choose one of their own members to serve as chairperson. This  
21 vote shall occur each year during the October Commission Meeting.

22 (f) Commissioners shall be paid a monthly amount at the first of each month to be established by the Principal  
23 Chief and Tribal Council in the annual budget process.

24 (g) The Commission shall meet at least once a month and minutes of each meeting shall be maintained.

25 (h) The Commission shall act by majority vote. A majority of the Commission constitutes a quorum to transact  
26 business. If a commissioner leaves a meeting and his absence destroys the quorum, then no business may be  
27 transacted until a quorum is re-established. When a position on the Commission is vacant, the remaining  
28 members may exercise the powers of the Commission until the vacancy is filled.

29 (i) Commission meetings shall be open to the public. However, the Commission may meet in executive session  
30 if the Commission determines such a session is necessary to protect the confidences of the parties or to serve  
31 the best interests of the Tribe.

32 (j) Commissioners may be removed for cause by their appointing authority. Cause includes, but is not limited  
33 to, being absent for three consecutive meetings without reasonable excuse.

34 ( [Ord. No. 505](#), 3-8-2023)