

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

Date: _____

ORDINANCE NO.: _____ (2024)

An ordinance to repeal and dissolve the Cherokee Police Commission.

WHEREAS, the Cherokee Police Commission was established by Ordinance No. 218 (2010) and was later codified as Chapter 120 of the Cherokee Code; and

WHEREAS, since its creation, the Cherokee Police Commission has strayed away from its original purpose of transparency and oversight of the Cherokee Indian Police Department, and in certain cases it has gone so far as inhibiting transparency and abusing its oversight; and

WHEREAS, the Cherokee Indian Police Chief is a Secretary of the Executive Office and reports to the Principal Chief; and

WHEREAS, it is the authority of the Executive Office to ensure regulatory oversight of its Secretaries; and

WHEREAS, budgetary oversight remains the ultimate responsibility of the Principal Chief and Tribal Council as part of the annual budget process; and

WHEREAS, the existence of the Cherokee Police Commission is diminishing the authority of the Executive Office to directly oversee its programs, all while creating a chain of command conflict for the Chief of Police and the Principal Chief.

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 the Cherokee Police Commission is hereby dissolved and that Cherokee Code Chapters 120, 4, 18B, and 117 are hereby amended or repealed as follows:

~~Chapter 120 CHEROKEE POLICE COMMISSION~~

~~Sec. 120-1. Establishment.~~

~~The Cherokee Police Commission (CPC) is hereby established as a law enforcement oversight component of the Tribe appointed according to C.C. Section 120-4.~~

~~Sec. 120-2. Purpose.~~

~~The purpose of the Commission is to provide performance and regulatory oversight of Tribal law enforcement agencies and to act as the liaison between the community, law enforcement agencies, and the Executive and Legislative branches of Tribal government providing~~

47 transparency, advice and advocacy for effective policies and protocols that will help reduce crime
48 and increase safety and justice on Tribal trust lands.

49
50 **Sec. 120-3. Definitions.**

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

52 (a) ~~Commission~~ shall mean the Cherokee Police Commission (CPC).

53 (b) ~~Commissioner and/or member~~ shall mean an authorized member of the Cherokee Police
54 Commission.

55 (c) ~~Chair~~ shall mean the Chairperson of the Cherokee Police Commission.

56 (d) ~~Vice Chair~~ shall mean the Vice Chairperson of the Cherokee Police Commission.

57 (e) ~~Law Enforcement Agency~~ shall mean an agency responsible for enforcing the laws of the
58 Eastern Band of Cherokee Indians, including but not limited to: the Cherokee Police
59 Department (CPD), the Alcohol Law Enforcement Division (ALE), the Natural
60 Resources Enforcement Office (NREO), Cherokee Animal Control (CAC), Marshall
61 Service/Probation, and Detention Center.

62 (f) ~~Law Enforcement Officer or Law Enforcement Official~~ shall mean any authorized
63 personnel delegated authority to enforce the laws of the Eastern Band of Cherokee
64 Indians.

65 (g) ~~Oversight~~ shall mean the authority and responsibility to request, synthesize and analyze
66 any information from law enforcement agencies in a manner that will assist the
67 Commission in carrying out its purpose and the authorities in this chapter in order to
68 have a data informed view of quantity, quality and effectiveness of the agencies and shall
69 not include the authority to directly supervise, manage or direct any law enforcement
70 officials or agencies.

71 (h) ~~Report~~, when used as provided in C.C. Section 120-5(a) to describe the duty of an
72 employee to report to the Commission, shall mean that the employee shall provide
73 information to and be responsive to the inquiries, requests and proceedings of the
74 Cherokee Police Commission.

75
76 **Sec. 120-4. Commission membership.**

77 (a) ~~Nominations to serve on the Cherokee Police Commission are made by the Principal Chief.~~
78 ~~Tribal Council approves membership appointments and the Commission's annual work plan.~~
79 ~~The Commission shall consist of eight members, six of whom shall be members representing~~
80 ~~the six Tribal townships of the Eastern Band of Cherokee Indians, the other two representing~~
81 ~~one "at large" male and one "at large" female.~~

82 (b) ~~Unless a shorter term is expressed in the appointing resolution, a Commissioner's term shall~~
83 ~~be three years. Successive and multiple terms are allowed but in no case shall a Commissioner~~
84 ~~serve more than six years on the Commission. Vacancies shall be filled within 90 days of the~~
85 ~~event causing the vacancy and vacancies shall be filled in the same manner as original~~
86 ~~appointments are made. To the extent possible, appointments shall be made to stagger the~~
87 ~~terms of the Commissioner. Commissioners may be removed from office by the nominating~~
88 ~~authority for just cause, as recommended by a majority vote of the Police Commissioners.~~

89

1 **Sec. 120-5. Authority.**

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

- 3 (a) ~~Oversight of all Tribal Law Enforcement agencies. The Chief of Police and other Tribal~~
4 ~~Law Enforcement Managers shall manage the daily operations of their respective~~
5 ~~program and the commission shall ensure that the implementation of applicable law~~
6 ~~policies, standards, regulations, and law are being achieved by law enforcement. The~~
7 ~~Chief of Police and other Tribal Law Enforcement Managers shall provide monthly~~
8 ~~reports to the Commission for its execution of the authorities expressed in this section;~~
9 (b) ~~Review and make recommendations as needed regarding the agency policy and~~
10 ~~procedure manuals, handbooks, guidelines, or memorandums of understanding used by~~
11 ~~each agency. Such recommendations shall be made in writing to the Executive~~
12 ~~Committee;~~
13 (c) ~~Formation of a system to receive, review, and monitor public complaints and concerns~~
14 ~~regarding law enforcement to ensure law enforcement agencies and officers are meeting~~
15 ~~the needs of the community;~~
16 (d) ~~Review and make recommendations for the annual budgets and year-to-date actuals~~
17 ~~prepared by Law Enforcement Program Managers and the Chief of Police providing~~
18 ~~advocacy and support for budgets before submitting formal recommendations in writing~~
19 ~~to the Executive and Legislative branches of Tribal government;~~
20 (e) ~~Review and make recommendations in writing to the Executive Committee for the~~
21 ~~qualifications for each rank and grade in the law enforcement field and make~~
22 ~~recommendations as necessary to ensure consistency within tribal law enforcement~~
23 ~~agencies;~~
24 (f) ~~Review and make recommendations in writing to the Executive Committee for the~~
25 ~~purchase and use of effective and necessary equipment used by or in connection with the~~
26 ~~operation of law enforcement departments or programs;~~
27 (g) ~~Monitor the complaints made to all law enforcement agencies for officer misconduct to~~
28 ~~ensure the Chief of Police and other Tribal Law Enforcement Managers have responded~~
29 ~~to and taken appropriate action consistent with policy on law enforcement ethics and~~
30 ~~misconduct and to provide an annual report to the in writing to the Executive and~~
31 ~~Legislative branches of Tribal government regarding complaints, resolutions, and~~
32 ~~potential training needs for officers;~~
33 (h) ~~Submit an annual report to the in writing to the Executive and Legislative branches of~~
34 ~~Tribal government containing quantitative and qualitative (performance) measures that~~
35 ~~illustrate the volume and types of crimes that are being reported, investigated, and~~
36 ~~charged in tribal, federal and state courts and how efficiently and effectively law~~
37 ~~enforcement is contributing to the justice system;~~
38 (i) ~~All Commissioners shall have the authority to vote on issues coming before the~~
39 ~~Commission;~~
40 (j) ~~To draft, approve, and implement protocols for the administration of duties placed upon~~
41 ~~the Cherokee Police Commission;~~
42 (k) ~~To share relevant information and perspectives from other community groups,~~
43 ~~organizations, or constituencies with the Commission;~~
44 (l) ~~To represent the Commission at public events and other organizational meetings;~~
45 (m) ~~Serve on temporary committees or task groups that address specific work plan items;~~
46 (n) ~~Investigative subpoena power;~~

- 1 ~~(o) Authority to review, in report form, all personnel actions taken by each law enforcement~~
2 ~~agency in the course of its daily operations to ensure proper oversight of the quality and~~
3 ~~quantity of agency operations. Reports of personnel actions shall comply with Tribal law~~
4 ~~and the Personnel Policy regarding confidentiality of personal identifying information.~~
5 ~~All law enforcement agencies, including the law enforcement officers and other~~
6 ~~employees therein, are subject to the Tribe's Personnel Policy and Procedures, and the~~
7 ~~authority to take personnel actions on law enforcement officers and other employees is~~
8 ~~vested in the law enforcement agency; and~~
9 ~~(p) Serve as an outreach entity for citizens to submit law enforcement recommendations,~~
10 ~~complaints and/or commendations.~~

11
12 **~~Sec. 120-6. Recommendations of the Commission.~~**

13 ~~The Commission shall consult with all tribal law enforcement agencies and their leadership~~
14 ~~prior to recommending new policy in writing to the Executive Committee. The Commission shall~~
15 ~~provide each law enforcement agency a copy of any and all reports that the Commission may~~
16 ~~present annually or otherwise.~~

17
18 **~~Sec. 120-7. Coordination and authority regarding TABCC.~~**

19 ~~(a) Coordination. To the extent practicable, the Cherokee Police Commission and the Tribal~~
20 ~~Alcohol Beverage Control Commission (TABCC) shall share and coordinate law~~
21 ~~enforcement related information, training, development, and policies, relevant to the~~
22 ~~enforcement of general criminal laws, that is, laws that are not specific to the regulation of~~
23 ~~alcoholic beverages within the jurisdiction of the Tribe.~~

24 ~~(b) Authority. Notwithstanding any other provision of this Chapter, the Cherokee Police~~
25 ~~Commission shall have authority to inquire of, review and examine the subjects described in~~
26 ~~subsection (a) of this section, as well as the activities of alcohol law enforcement agents as~~
27 ~~defined in C.C. Chapter 18B related to the enforcement of the general criminal laws of the~~
28 ~~Tribe, and may compel the participation and cooperation of such agents in the inquiry, review~~
29 ~~and examination. The goal of the Cherokee Police Commission in this context shall be to~~
30 ~~review for compliance with applicable law, policy, and training, and to provide comments~~
31 ~~and recommendations to the TABCC regarding the enforcement of the general criminal laws~~
32 ~~of the Tribe, that is, the Tribe's criminal laws that are not unique to the alcohol regulatory~~
33 ~~mission of the TABCC, and to review the conduct of law enforcement agents in the~~
34 ~~performance of their official duties; provided, however, that the TABCC shall retain its~~
35 ~~authority, independent of the Police Commission, to determine corrective actions and~~
36 ~~employment status of its employees, and the Police Commission may only make~~
37 ~~recommendations as to those personnel matters. To respect the independence of the TABCC~~
38 ~~as provided in C.C. § 18B-200(f), the Cherokee Police Commission shall not have authority~~
39 ~~over any aspect of the TABCC that is the enforcement of the general criminal laws of the~~
40 ~~Tribe.~~

41
42 **~~Sec. 4-34. Required reports to police commission. Reserved.~~**

43 ~~(a) All Tribal law enforcement agencies shall document and track the actions and behaviors of~~
44 ~~law enforcement officers for the purpose of intervening and improving performance and shall issue~~
45 ~~such reports, quarterly, to the Cherokee Police Commission. Subject to additional authority of the~~

1 Cherokee Police Commission expressed in C.C. Chapter 120, the quarterly report required by this
2 section shall include, at a minimum, aggregate data for each quarter regarding the following:

- 3 (1) Instances of the discharge of a firearm by an officer while on duty, not including training;
- 4 (2) Instances of use of force;
- 5 (3) Agency vehicles involved in a collision; and
- 6 (4) Citizen complaints.

7 ~~(b) Information collected under this section that is confidential under Tribal, federal or state law~~
8 ~~shall remain confidential.~~

9
10 **Sec. 18B-500. Tribal alcohol law-enforcement agents.**

11 (a) *Appointment.* The Tribal Alcoholic Beverage Control Commission of the Eastern Band of
12 Cherokee Indians shall appoint a Chief Tribal alcohol law-enforcement agent. The Chair of
13 the Tribal Alcoholic Beverage Commission or the Chair's designee shall have the authority
14 to supervise day-to-day activities of the Chief alcohol law-enforcement agent or the Chair's
15 designee. The Chief Tribal alcohol-law enforcement agent may appoint, with the approval of
16 the Tribal ABC Commission, Tribal alcohol law-enforcement agents and other enforcement
17 personnel. Tribal alcohol law-enforcement agents shall be designated as "Tribal alcohol law-
18 enforcement agents."

19
20 (b) *Subject matter jurisdiction.* After taking the oath prescribed for a peace officer, a Tribal
21 alcohol law-enforcement agent shall have authority to arrest and take other investigatory and
22 enforcement actions for any criminal offense arising from the enforcement of alcohol laws
23 and regulations. The primary responsibility of an agent shall be enforcement of the Tribal
24 ABC and controlled substance laws; however, an agent may perform any law-enforcement
25 duty assigned by the Chief alcohol-law enforcement agent or the Chair's designee when
26 coordinated with the Chief of Police as set forth in C.C. Chapter 4.

27
28 (c) *Territorial jurisdiction.* A Tribal alcohol law-enforcement agent is a Tribal officer with
29 jurisdiction throughout the lands of the Eastern Band of Cherokee Indians.

30
31 (d) *Service of commission orders.* Tribal alcohol law-enforcement agents may serve and execute
32 notices, orders, or demands issued by the Tribal Alcoholic Beverage Control Commission for
33 the surrender of permits or relating to any administrative proceeding. While serving and
34 executing such notices, orders, or demands, alcohol law-enforcement agents shall have all the
35 power and authority possessed by law-enforcement officers when executing an arrest warrant.

36
37 ~~(e) Authority of Cherokee Police Commission. Tribal alcohol law-enforcement agents are law~~
38 ~~enforcement officers as defined in C.C. Chapter 120 governing the Cherokee Police~~
39 ~~Commission, and they are subject to certain actions of the Cherokee Police Commission,~~
40 ~~subject to limitations expressed in C.C. § 120-7.~~

41
42 **Sec. 117-42. Tribal action plan for substance use disorder prevention, treatment and**
43 **recovery.**

44 (a) *Purpose.* The Eastern Band of the Cherokee Indians is committed to a multi-system
45 collaborative approach to reduce the morbidity and mortality of substance use disorder
46 (SUD), including opioid use disorder (OUD), on tribal members, tribal families and the

1 community. The Tribe is also committed to achieving population level goals that will
2 contribute to the reduction of these disorders. To achieve these ends, it is essential that there
3 be a comprehensive representation of both tribal government and community stakeholders
4 meeting at regular intervals to review the status of population indicators associated with the
5 contribution to and reduction of SUD/ODU so that priorities for public funding and provision
6 of prevention, intervention, and support services are deployed based on the information
7 monitored by the multi-system collaborative stakeholder's group.
8

9 (b) *Establishment of the multi-system collaborative, Tribal Coordinating Committee.* In order to
10 regularly monitor the status of population indicators both contributing to and reducing the
11 rates of SUD/ODU at the population level for this tribal community there is hereby created a
12 multi-system and multi-disciplined stakeholder group with required representation and
13 participation by representatives of the following governmental entities, divisions or programs:
14

- 15 (1) The Secretary of the Tribe's Public Health and Human Service Division, the Director of
16 Public Health and the Director of Human Services;
- 17
- 18 (2) The Chief Executive Officer of the Cherokee Indian Hospital Authority, and the Director
19 of Analenisgi;
- 20
- 21 (3) The Tribe's Attorney General and the Tribal Prosecutor;
- 22
- 23 (4) The Chief of the Cherokee Indian Police Department, the Captain of Investigations, and
24 the Captain of Patrol, ~~and the Chairman of the Police Commission;~~
- 25
- 26 (5) The Chief Justice of the Cherokee Supreme Court, the Judge for the Wellness Court;
- 27
- 28 (6) The Superintendent of the Cherokee Central Schools, and the Chairman of School
29 Board;
- 30
- 31 (7) The Secretary of the Division of Operations;
- 32
- 33 (8) The Secretary of Housing;
- 34
- 35 (9) The Secretary of Education; and
- 36
- 37 (10) Any other specific stakeholder recommended permanently or from time to time by the
38 multi-system group from the analysis of the information reviewed at the regular meetings
39 when that stakeholder representative is an essential element to provide a more
40 comprehensive scope of facts needed to determine a population indicator or a fuller and
41 more comprehensive service continuum.
- 42

43 (c) *Administrative support for the facilitation of the multi-system stakeholder group.*

- 44 (1) The Division of Public Health and Human Services shall house and fund a position
45 responsible for the regular administrative support of the stakeholder group including but
46 not limited to managing the various agency specific data determined by the stakeholder

1 group as necessary to measure various specific strategies and program outcomes;
2 managing the population level data determined by the stakeholder group as necessary to
3 measure population indicators that contribute to and reduce the rates of SUD/OD;
4 preparing agendas for quarterly meetings of the stakeholder group and facilitating such
5 meetings where data can be reviewed, analyzed and progress toward the population of
6 goal of reduced harmful effects of and diagnosis of substance use disorders is monitored
7 with the intent to methodically, collectively and collaboratively achieve the results as a
8 long-range goal of the Tribe.
9

10 (2) The stakeholder group administrator shall also provide a written or statistical report to
11 the Principal Chief and the Chairman of Tribal Council each January and June reflecting
12 the data that represents the status or outcomes of the multi-system and comprehensive
13 strategies aimed at reducing the morbidity and mortality of SUD/OD, and also the
14 status of the monitored population indicators that are identified as critical elements for
15 the long range population goal of reducing the rates of morbidity and mortality of
16 SUD/OD throughout the community; and
17

18 (3) The stakeholder group administrator shall also identify existing resources or potential
19 grant resources in terms of grant funding that is comprehensive in terms of the breadth
20 of partnership necessary to provide comprehensive services aimed at reducing the
21 morbidity and mortality of substance use disorder (SUD), including opioid use disorder
22 (OD).
23

24 (d) *Integration with tribal indicators prioritized as part of five-year planning to achieve five*
25 *population goals of Tribe.* The stakeholder group shall integrate where feasible any shared or
26 cross-over population indicators for the purpose of achieving the goal of reducing the
27 morbidity and mortality of SUD/OD that Tribal Council may prioritize from time to time
28 pursuant to Chapter 117-B of the Cherokee Code.
29

30
31 **Sec. 117-44.1. Purpose and applicability.**

32 Confirming or approving appointments.

33 (a) The hearing rules shall apply to Tribal Council when considering a judicial, commission,
34 committee, or board confirmation.
35

36 (b) Upon completing a confirmation hearing the Tribal Council shall determine whether to
37 confirm or reject the appointment.
38

39 (1) When Tribal Council confirms the appointment, the Tribal Council shall submit a
40 resolution at a Tribal Council session.
41

42 (2) When Tribal Council rejects the appointment, the Chairman shall notify the
43 Principal Chief in writing with in five calendar days of the hearing.
44

45 (c) These rules shall be construed in accordance with Charter and Governing Document;
46 C.C. Section 7-11 (Judicial Branch) CC. Section 16-2.01 (b) (Tribal Gaming

1 Commission); C.C. Section 16A-3(b) (Tribal Casino Gaming Enterprise); C.C. Section
2 17-21 (a) (EBCI Cannabis Control Board); C.C. Section 18B-200 (b) (Tribal Alcoholic
3 Beverage Control Commission); C.C. Section 55B-3.1 (B)(1) (Kituwah Economic
4 Development Board); C.C. Section 92-5 (Tribal Employment Rights Commission); C.C.
5 Section 117-41(a) (Investment Committee); C.C. Section 117-109 (5) (Audit and Ethics
6 Committee); ~~C.C. Section 120-4 (Cherokee Police Commission)~~; C.C. Section 130A-8
7 (EBCI PHHS Advisory Board); C.C. Section 130A-8 (EBCI PHHS Advisory Board);
8 C.C. Section 130B-3(b) CIHA Governing Board; Resolution No. 298 (2004); (Balsam
9 West); Resolution No. 703 (2011) (Sequoyah National Golf Board); Resolution No. 177
10 (2018); (Beloved Woman Committee) Resolution 54 (2019); (Harrah's Cherokee Tribal
11 Scholarship Fund Committee); Sequoyah National Golf Club (Res. 703 (2011);
12 Beloved Woman Committee (Res. 177 (2018); Audit and Ethics Committee (Ord. 264
13 (2002); Qualla Enterprises, LLC (Res. 200 (2022); Election Board (established by Sect.
14 161-17) Balsam West (Res. 298 (2004); Internal Audit Board; any future boards,
15 commissions and committees that shall be created in the future and other applicable laws
16 of the Eastern Band of Cherokee Indians.

17
18
19 BE IT FINALLY ORDAINED, that all ordinances and resolutions inconsistent with this ordinance
20 are rescinded, and this ordinance shall become effective upon ratification by the
21 Principal Chief.
22

23 *Submitted by: Dike Sneed, Tribal Council Member, Painttown Community*