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CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

Date: _____

ORDINANCE NO.: _____ (2025)

*An ordinance to establish a deer hunting season
and other changes needed to natural resources law.*

WHEREAS, the Eastern Band of Cherokee Indians is duly authorized to establish and regulate its natural resources under its sovereign powers as a federally recognized Indian Tribe; and

WHEREAS, Chapter 113 of the Cherokee Code sets out the Tribe's laws for hunting, fishing, and for other topics involving wildlife and natural resources; and

WHEREAS, currently the Tribe allows for the hunting of various animals, but not deer; and

WHEREAS, it is now possible to establish a deer season which balances increased hunting opportunities for enrolled members and the responsible management of the deer population; and

WHEREAS, amendments are also needed to clarify with Game Wardens may conduct lawful searches in furtherance of their responsibilities to enforce game laws; and

WHEREAS, other amendments are also needed in Chapter 113 to reflect changes in the operation and terminology used by the Natural Resources Department and Natural Resources Enforcement; and

WHEREAS, in order to clarify the Cherokee Code to reflect these changes in how the Tribe regulates its natural resources, the Natural Resources Department suggests the following amendments to the Chapter 113.

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 in order to allow for a deer hunting season and to make other changed needed to update the Tribe's laws on natural resources, Cherokee Code Chapter 113 is hereby amended as follows:

Chapter 113 ~~DIVISION OF AGRICULTURE AND NATURAL RESOURCES~~
ARTICLE I. ~~ESTABLISHMENT OF THE DIVISION OF AGRICULTURE AND NATURAL~~
~~RESOURCES~~

Sec. 113-1. ~~Division of Agriculture and Natural Resources~~ Department.

- (a) There shall be established the ~~Division of Agriculture and~~ Natural Resources Department ("~~Division~~Department"). There shall be ~~departments~~ offices and programs within the Division Department that shall be responsible for administering tribal laws for managing and protecting the natural environment of the Eastern Band of Cherokee Indians. The Natural Resources Department is alternatively known as and referred to as the Division of Agriculture and Natural Resources. Both names refer to the office of Tribal government responsible for regulation of the Tribe's wildlife, environment, and natural resources.
- (b) The Division Department through its ~~departments~~ offices and programs shall also manage the Cherokee trout fishing, wildlife, air, water, energy, ~~agriculture~~ environmental, and forestry resources located on and within Tribal lands. For purposes of this Chapter, "Tribal lands" means all trust lands of the Eastern Band of Cherokee Indians and lands owned by the Eastern Band of Cherokee Indians.
- ~~(c) The Division shall be responsible for promulgating administrative rules and regulations and establishing license/permit fees. The Division shall operate with revenues generated from the sale of license/permits.~~

Sec. 113-2. Rules and regulations.

The ~~Division of Agriculture and Natural Resources~~ Department shall have the authority and responsibility to issue and adopt ~~promulgate~~ all necessary administrative rules and regulations for the administration and enforcement of this and any other chapter that regulates the Tribe's natural resources and environment.

Sec. 113-3. Trout hatchery.

The Cherokee Trout Hatchery shall be managed and operated by the Department's Fisheries and Wildlife Management Program as a Tribal enterprise for the purpose of hatching and growing trout for use in stocking Cherokee Enterprise waters and streams. Income generated from the sale of fish shall be returned to the Tribal Fish Hatchery Budget for operational and restocking purposes.

Sec. 113-4. Licenses and permits.

Hunting license

- (a) All persons hunting or trapping game on Cherokee Indian trust lands must possess, and have on their person while engaged in hunting or trapping, a valid Tribal hunting license.
- (b) Hunting fees:
- (1) Enrolled members of the Eastern Band of Cherokee Indians may hunt with an enrollment card from the Eastern Band of Cherokee Indians at no cost. An enrolled member's enrollment card shall serve as his license which he/she must have in their possession for the duration of any hunting expedition on Tribal lands.
 - (2) ~~Those first~~ First descendants of EBCI enrolled members and non-enrolled spouses of EBCI enrolled members, ~~who reside on Cherokee Indian trust lands,~~ may be issued a hunting license by the Fisheries and Wildlife Management Program after a payment of a fee \$10.00. The license shall be in effect for a period of one year.
 - (3) No other persons shall be eligible to obtain a Tribal hunting license.
- (c) The Tribal hunting license shall authorize the holder to engage in such hunting and trapping as shall be authorized by this Chapter and shall include hunting on non-posted areas of Tribal lands ~~Cherokee trust lands~~, hunting big game and hunting with primitive weapons during special seasons.

Fishing permits

- 1 (a) Opening day of the fishing season on catch and keep enterprise waters shall be the last Saturday in
2 March and the season shall be closed to fishing by enrolled members and non-enrolled members two
3 weeks prior to this date. The catch and release fishing area shall be open year round with no closed
4 season.
- 5 (b) All persons fishing within waters of ~~Cherokee Indian trust~~ Tribal lands must possess and have on their
6 person while engaged in fishing, a valid Tribal fishing permit issued by the Fisheries and Wildlife
7 Management Program. An EBCI enrolled member's enrollment card shall serve as his/her fishing
8 permit.
- 9 (c) ~~Enrolled members of the Eastern Band of Cherokee Indians shall fish with an enrollment card from~~
10 ~~the Eastern Band of Cherokee Indians. First descendants of EBCI enrolled members and non-enrolled~~
11 ~~spouses of EBCI enrolled members may be issued a fishing permit after payment of a fee.~~
- 12 (d) Special permits:
- 13 (1) Special fishing permits are available for persons meeting specific criteria and shall only be issued
14 through the Fisheries and Wildlife Management ~~Office-Program~~. These special permits will be
15 issued by the ~~Natural Resource~~ Fisheries and Wildlife Manager and/or his designee upon
16 verification and documentation of the enrolled member's Tribal enrollment card/number.
- 17 (2) Unity and Cherokee Children's Home residents and staff.
- 18 a. The Fish and Wildlife Program Manager shall issue special fishing permits to Unity and
19 Cherokee Children's Home residents and staff when they are on a program sponsored
20 outing.
- 21 b. Neither the residents nor the staff shall be required to purchase a Tribal fishing permit.
- 22 c. Once the resident leaves or the staff individual is no longer employed with their respective
23 facility then those individual must purchase a Tribal fishing permit.

24
25 **Sec. 113-5. Prohibitions.**

- 26 (a) Hunting offenses.
- 27 (1) It shall be unlawful to hunt or discharge a firearm within 100 yards of any commercial property,
28 elderly housing, hospital, school, housing project, campground, motel, church or any other
29 property used by the public for public gathering, unless such activity is performed while
30 participating in a lawfully organized exercise.
- 31 (2) It shall be unlawful to spotlight wild animals or birds.
- 32 (3) Migratory game birds may be hunted or taken only during the times and in the manner permitted
33 by federal regulations.
- 34 (4) It shall be unlawful to shoot into a squirrels nest.
- 35 (5) It shall be unlawful to cut den trees.
- 36 (6) It shall be unlawful to hunt, trap, kill or take any bird of prey or elk, elk or deer.
- 37 (7) Reserved.
- 38 (8) It shall be unlawful to trap any big game or any other game except a species specified in this
39 Chapter within ~~Cherokee Indian trust~~ Tribal lands.
- 40 (9) Game birds may be taken one-half hour before sunrise through one-half hour after sunset with
41 shotgun, bow and arrow, dogs or by falconry.
- 42 (10) Bear, wild boar, raccoon, opossum, and coyote may be taken day or night.
- 43 (11) It shall be unlawful to hunt or trap on the possessory holding of another Tribal member without
44 permission from the possessory holder.
- 45 (12) Reserved.
- 46 (13) Reserved.
- 47 (14) It shall be unlawful to kill a non-bearded female (hen) turkey at any time.
- 48 (15) It shall be unlawful to bait wild turkey and deer.
- 49 (16) It shall be unlawful to kill wild turkey with a rifle or pistol.
- 50 (b) Fishing ~~criminal~~ offenses.
- 51 (1) Seining of fish shall be unlawful.

- (2) Buying or selling of game fish shall be unlawful.
- (3) Giggling or spearing fish shall be unlawful.
- (4) Dynamiting or poisoning of fish shall be unlawful.
- (5) ~~Destruction of fish in Tribal holding facilities shall be unlawful.~~ Using non-native bait determined by the Department to be invasive shall be unlawful.
- (6) Fishing in closed waters/ponds posted "No Fishing" or "No Trespassing" shall be unlawful.
- (7) The destruction and/or damaging of Tribal holding facilities shall be unlawful.
- (8) Electro fishing shall be unlawful unless performed by the Tribe or through approved research.

(c) *Infractions.*

- (1) It shall be unlawful to exceed the fishing creel limit of ~~ten~~ seven fish per day, per permit holder (includes catch of children fishing under a supervising adult's permit).
- (2) It shall be unlawful to fish without a permit.
- (3) Snagging of fish is unlawful.
- (4) Grabbing of fish is unlawful.
- (5) Chumming of fish is unlawful.
- (6) Fishing with more than one line is unlawful.
- (7) Setting of trotlines is unlawful.
- (8) Fishing in closed streams, ponds or waters is unlawful.
- (9) Fishing before or after legal fishing hours is unlawful.
- (10) It shall be unlawful to fail to keep individual catch separate.
- (11) Failure to retain all trout caught in Tribal managed ponds shall be unlawful. Catch and release is permitted in all other Tribal Enterprise Waters except in managed ponds.
- (12) It shall be unlawful to retain illegally caught trout.
- (13) Camping in unauthorized areas ~~for the purpose of fishing or hunting~~ is not permitted.
- (14) It shall be unlawful to cut wood or timber, except for campsite use, on Tribal reserve lands at any time except in those areas designated for cutting by the BIA Forestry department.
- (15) It shall be unlawful to hunt any game on Sunday. For purpose of this Chapter, Sunday shall be defined as extending from sunrise on Sunday morning until sunrise on the following Monday morning.
- (16) It shall be unlawful to hunt or fish within ~~the Territorial Jurisdiction of the Eastern Band of Cherokee Indians Tribal lands~~ without the proper license and/or permit.
- (17) It shall be unlawful to fail to produce a valid license and/or permit to any ~~Natural Resources Enforcement Officer~~ Game Warden when requested.
- (18) It shall be unlawful to bribe, attempt to bribe, cajole or threaten a Game Warden ~~Natural Resource Enforcement Officer~~.
- (19) It is unlawful to clean or dispose of fish or fish parts in a stream, river, pond, or other body of water. Fish and fish parts may only be disposed of in sealable bags or containers which are placed in trash cans or other proper receptacles.

Sec. 113-6. Catch and release fishing area.

(a) *General guidelines.*

- (1) Non-enrolled fishermen, or non-special permit recipients must possess a valid Cherokee Indian Reservation Enterprise Waters Fishing Permit and the additional Special Use Permit associated with Trophy Trout Catch and Release Waters.
- (2) Open to fishing year-round (no closed season).
- (3) Fishing hours - ~~One hour~~ Thirty minutes before sunrise to ~~one hour~~ thirty minutes after sunset.
- (4) No trout may be killed or had in possession.
- (5) Fishing may be done with artificial flies and streamers constructed of natural or synthetic materials, so long as all flies are constructed in a normal fashion on a single, barbless hook with components wound on or about the hook. Anything other than these items is prohibited.
- (6) Fishing with multiple flies attached to a single line (droppers) is permitted.

- (7) Fishing must be done with tackle limited to fly rods, fly reels, and fly line with a maximum of 18 feet in leader material or monofilament line attached.
- (8) The use or possession of any natural bait, fish bait, bait paste and similar substances, fish eggs (natural or molded), or any other edible substance is prohibited.
- (9) ~~Taking~~Using bait fish or natural fish-bait is prohibited.
- (b) A Catch and Release special use permit is required for all non-enrolled persons and non-special permit recipients over 12 years of age.

Sec. 113-7. Trapping.

- (a) It shall be legal to trap mink, muskrat, opossum, raccoon, skunk, weasel, wildcat, fox, ~~beaver, otter,~~ and wild ~~boar~~ boar. It shall be illegal to trap any other species on ~~Cherokee Indian trust~~ Tribal lands.
- (b) It shall be unlawful to:
- (1) Take wild animals by trapping with any steel jaw, leghold or ~~con~~nibear trap, unless it:
 - a. Has a jaw spread of not more than 7½ inches;
 - b. Is horizontally offset with closed jaw offset of a least 3/16 inches for a trap with a jaw spread of more than 5½ inches; (this provision shall not apply if the trap is set in water with a quick drown type set);
 - c. Is smooth edged and without teeth or spikes;
 - d. Has a weather resistant permanent tag attached legibly giving the trapper's name and address.
 - (2) Set steel jaw or leghold trap on dry land with a solid anchor with a trap chain longer than eight inches from the trap to the anchor unless fitted with a shock absorbing device approved by the Wildlife agent.
 - (3) Remove or disturb any lawfully set trap or remove any fur bearing animal from the trap without permission of the trap owner.
 - (4) Set or use a trap so that animals or birds will be suspended when caught.
 - (5) Set or use a hook of any sort to take a wild animal or wild bird.
 - (6) Every trap set on ~~Cherokee Indian trust~~ Tribal lands must be visited daily and any animal caught must be promptly removed.
 - (7) The location of traps must be recorded in the Natural Resource Enforcement Office for safety and enforcement purposes; failure to notify the Natural Resource Enforcement Office by the trap owner shall be illegal and offenders shall be fined no less than \$100.00 per day, per trap, in addition to court costs.
 - (8) Baiting shall be allowed only on a hunter's own assigned possessory holding. Baiting shall be allowed on the possessory holding of another only with the owner's written permission. Baiting on individual possessory holding with the permission of the landowner and upon "Tribal Reserve Property" as defined in Section 47B-8 of the Cherokee Code shall be permitted from April 1 through August 15. All bait must be removed from site no later than August 15. Baiting with all natural and unprocessed bait may be done all year. All hunters must notify the Natural Resource Enforcement Office of the location of all bait and/or bait sites no later than three days after establishment of such sites. Failure to do so will result in a fine of no less than \$100.00 per bait site.
 - (9) It shall be illegal to use and/or possess a trap, hand-made or manufactured, for the purpose of trapping big game animals as identified in section 113-8.

Sec. 113-8. Big game.

- (a) Big game, for purposes of hunting on ~~Cherokee Indian trust~~ Tribal lands, shall be limited to bear, ~~white-tailed deer,~~ and wild turkey.
- (b) The season for hunting wild turkey shall be from the second Saturday in April until the third Saturday in May (spring season).
- (1) The limit for wild turkey shall be two per season (toms only), per licensed hunter.

- (2) A youth turkey hunting season is ordained, beginning the same as the state's hunting season starts. The first seven days shall be designated for youth ages 16 and under, and the youth shall be allowed two toms.
- ~~(e) The limit for wild turkey shall be two per season (toms only), per licensed hunter.~~
- ~~(1) A youth turkey hunting season is ordained, beginning the same as the state's hunting season starts. The first seven days shall be designated for youth ages 16 and under, and the youth shall be allowed two toms.~~
- ~~(d c) The hunting of bear shall be from September 1 the first Monday in September at sunrise through December 31.~~
- ~~(1) The limits for bear shall be two per season, per licensed hunter.~~
- ~~(2) It shall be unlawful to take or kill any bear weighing less than 100 pounds or to take or kill a female bear with a cub. It shall be unlawful to take or kill any bear cub. Abandoned and/or orphaned bear cub sightings must immediately be reported to the Natural Resource Enforcement Office.~~
- ~~(e) The limits for bear which may be taken or killed shall be two per season, per licensed hunter.~~
- ~~(f) It shall be unlawful to take or kill any bear weighing less than 100 pounds or to take or kill a female bear with a cub. It shall be unlawful to take or kill any bear cub. Abandoned and/or orphaned bear cub sightings must immediately be reported to the Natural Resource Enforcement Office.~~
- ~~(d) The season for hunting white-tailed deer shall be from November 30 to January 1.~~
- ~~(1) The limits for white-tailed deer shall be antlered deer per season, per licensed hunter.~~
- ~~(2) Deer may only be harvested using archery weapons. Blackpowder and guns are prohibited.~~
- ~~(3) All harvested deer shall be reported to the Department within 24 hours.~~
- ~~(4) A deer may be harvested only if the hunter has a current, valid deer tag issued by the Department.~~
- ~~(g e) It shall be illegal for any person to sell any organ, skin or body part of any big game animal to any non-enrolled member or to any person beyond the boundaries of Cherokee Indian trust Tribal lands or to any person who will remove such organ, skin or body part from Cherokee Indian trust Tribal lands.~~

Sec. 113-9. Small game and other species.

- (a) There shall be an open season and no bag limit on the hunting of crow.
- (b) The season for hunting groundhog shall be from September 1 through February 28, with a bag limit of five and a season limit of 50.
- (c) The season for hunting of grouse shall be from October 1 through February 28 with a daily bag limit of three, a possession limit of six and a season limit of 30.
- (d) The season for hunting or box trapping of rabbit shall be from November 19 through January 31 with a daily bag limit of five, a possession limit of ten and season limit of 75.
- (e) The season for hunting squirrel shall be from October 1 through January 1 with a daily bag limit of eight, a possession limit of 16 and a season limit of 75.
- (f) The season for hunting of fox, raccoon, and opossum, ~~and coyote~~ with dogs shall be from September 1 through the last day of February.
- (g) There shall be no closed season on hunting of wild boar or coyote. There shall be no limit on wild boar or coyote.
- (h) Hunting of coyote.
- (1) No trapping, just shot allowed.
- (2) Animal can be retained by hunter for the sale of its pelt.
- (3) Bounty for the reduction of coyotes allowed.
- a. To receive bounty payment, hunter must be an EBCI enrolled Tribal member.
- b. Animal must be inspected and marked by Tribe.
- c. Bounty award not to exceed \$25.00 per coyote.
- d. Number of bounties awarded may be limited due to available funding.

1
2 **Sec. 113-10. Weapons.**

- 3 (a) Hunting with shotguns larger than ten gauge is prohibited. Hunting wild turkey will be with 12, 16,
4 or 20 gauge shot guns or bow and arrows.
5 (b) When hunting migratory game birds, shotguns must be plugged so as to limit their maximum capacity
6 to three shells.
7 (c) Hunting with bow and arrow shall be limited to bows having a minimum pull of 45 pounds. Broadhead
8 type arrows with a width of 7/8-inch may be used for small game. Poisonous, drugged, barbed or
9 explosive arrowheads are illegal and shall not be used for any purpose.
10 (d) The following species may be hunted or killed with a .22 caliber pistol having a barrel of not less than
11 5½ inches: rabbit, squirrel, opossum, raccoon, fur bearing animals and other legal non-game animals
12 and birds.
13 (e) A hunter or trapper lawfully taking wildlife by another method may use a pistol to dispatch an animal
14 or bird otherwise taken if necessary.
15

16 **Sec. 113-11. Dogs.**

- 17 (a) During hunting or training, all dogs must wear a collar with a weather resistant I.D. tag showing the
18 owner's name and address and the date of vaccination on the tag.
19 (b) It shall be unlawful for any person to possess a weapon or climbing gear while running dogs during
20 the training season mentioned in subsection (e) below.
21 (c) An individual hunter may only have two dogs loose or running at any given time. No hunting party
22 shall allow more than eight dogs to be loose or running at any given time. Additional dogs must be
23 leashed or caged.
24 (d) It shall be unlawful to remove a tracking device or identification collar from a dog.
25 (e) It shall be unlawful to run dogs at any time other than training season April 15 through August 23, or
26 one of the hunting seasons (September 1 through the end of February); provided however, beagles
27 may be run all year on tribal trust lands at Kituwah field.
28

29 **Sec. 113-12. Safety.**

30 Any person hunting with the use of firearms or bow and arrow, shall wear a cap or hat made of hunter
31 orange material or an outer garment of hunter orange visible from all sides.
32

33 **Sec. 113-13. Penalties.**

- 34 (a) Any violation of Section ~~133~~ 113-5(c) or 113-11 shall be considered a civil infraction. A "civil
35 infraction" is a civil offense against the Eastern Band of Cherokee Indians in which the remedy
36 involved is liquidated damages, which have been pre-determined by the Tribal Council of the Eastern
37 Band of Cherokee Indians. An infraction is not a crime and the punishment shall not affect or impair
38 the credibility of a witness or otherwise of any person convicted thereof. The Tribal Council of the
39 Eastern Band of Cherokee Indians shall from time to time determine a schedule of liquidated damages
40 for violations of Section ~~133~~ 113-5(b) and Fisheries and Wildlife Management shall cause said
41 schedule to be published prominently in locations across the Territorial Jurisdiction of the Eastern
42 Band of Cherokee Indians.
43 (b) Any person subject to the criminal jurisdiction of the Cherokee Court who is convicted of an offense
44 in violation of any provision concerning big game shall be fined not less than \$500.00 nor more than
45 \$1,000.00 for each offense, and restitution in the amount sufficient to provide for restocking of the
46 animal or animals involved in the violation, together with the revocation of all hunting privileges for
47 not less than one nor more than three years in addition to court costs.
48 (c) Any persons subject to the criminal jurisdiction of the Cherokee Court who is convicted of an offense
49 involving small game or other provisions of this Chapter not covered by Subsection (a) shall be fined
50 not less than \$50.00 nor more than \$250.00 for each offense, in addition to court costs. Repeat

offenders may also suffer the revocation of all hunting privileges for not less than one nor more than three years.

- (d) Any person who is not subject to the criminal jurisdiction of the Cherokee Court who violates any provision of this Chapter shall be subject to a civil penalty and fine of not less than \$50.00 nor more than \$1,000.00 for each violation, and restitution in an amount sufficient to provide for restocking of the animal or animals involved in the violation, plus court costs. Flagrant or intentional violation of the provisions of this Chapter may be referred to federal or state law enforcement officials for prosecution for trespass or other applicable criminal provisions, at the discretion of Cherokee law enforcement personnel.
- (e) All fines and liquidated damages collected by the Cherokee Court will be returned to the Natural Resources Enforcement Office for enforcement of Tribal laws and ordinances. All restocking fees collected by the Cherokee Court will be returned to the Fisheries and Wildlife program to be used by the Tribe in support of the Fisheries and Wildlife management program.
- (f) Any person convicted of removing or destroying a tracking device or identification collar from a dog shall be subject to the penalties provided in Appendix A: Schedule of Civil Penalties.
- (g) Nuisance animals are animals that destroy personal or private property. Nuisance animals shall be reported to the Natural Resources Enforcement Office for investigation. The Natural Resource Enforcement Officer shall determine the best course of action.
- (h) Any person subject to the criminal jurisdiction of the Cherokee Court who is convicted of an offense involving the illegal taking of black bear out of season shall be fined not less than \$2,500.00 nor more than \$5,000.00 for each offense, together with court fees and an amount of \$1,500.00 to provide for re-stocking of the animal or animals involved in the violation, together with the revocation of all hunting privileges for not less than one nor more than three years.

Sec. 113-14. Court costs.

Court costs shall be in addition to any fines. The amount of court costs shall be determined by the courts.

Sec. 113-15. Enforcement.

- (a) Natural Resources Enforcement Officers ~~(also known and referred to as "Game Wardens")~~ are granted the powers of law enforcement officers within the territorial jurisdiction of the Eastern Band of Cherokee Indians, and beyond its boundaries to the extent provided by law, in enforcing all matters within their respective subject-matter jurisdiction as set out in this Section.
- (b) The jurisdiction of ~~Natural Resources Enforcement Officers~~ Game Wardens extends to all areas set out in this Chapter 113 of the Cherokee Code, and to all other matters within the Cherokee Code which it directs ~~Natural Resources Enforcement Officer~~ Game Wardens to enforce. The Natural Resources Enforcement Officers are specifically granted jurisdiction over all aspects of:

- (1) Boating and water safety;
- (2) Hunting and trapping;
- (3) Fishing;
- (4) Activities in woodlands and on inland waters governed by Chapter 113 of the Cherokee Code.

In addition, ~~Natural Resources Enforcement Officers~~ Game Wardens have concurrent jurisdiction over all offenses under this Chapter involving "Tribal Reserve Property" as defined in Sec. 47B-8 of the Cherokee Code.

- (c) Natural Resources Enforcement Officers are additionally authorized to arrest without warrant under the terms of Cherokee Rules of Criminal Procedure for felonies, for any violation of Chapter 14 or 20 of the Cherokee Code, breaches of the peace, for assaults upon them or in their presence, and for other offenses evincing a flouting of their authority as enforcement officers or constituting a threat to public peace and order which would tend to subvert the authority of the Tribe if ignored. ~~Natural Resource Enforcement Officers~~ Game Wardens shall be empowered to issue citations to any person

for violations of this Chapter. The issuance of a citation shall be sufficient to charge a defendant for violation of criminal law or cite a defendant for commission of a civil infraction.

(d) In addition to law enforcement authority granted elsewhere, a ~~Natural Resources Enforcement Officer~~ Game Warden has the authority to enforce criminal laws under the following circumstances:

(1) When the ~~Natural Resources Enforcement Officer~~ Game Warden has probable cause to believe that a person committed a criminal offense in his presence; or

(2) When the ~~Natural Resources Enforcement Officer~~ Game Warden is asked to provide temporary assistance by the Chief of Police of the Cherokee Indian Police Department or his designee or by the head or designee of the state or local law enforcement agency acting within the authority granted by a mutual agreement authorized by Sec. 15-3 of the Cherokee Code and the request is within the scope of the Agency's jurisdiction.

While acting pursuant to this Subsection, a ~~Natural Resources Enforcement Officer~~ Game Warden shall have the same powers invested in law enforcement officers by ordinance or common law. When acting pursuant to (2) of this Subsection a ~~Natural Resources Enforcement Officer~~ Game Warden shall not be considered an officer, employee, or agent for the state or local law enforcement agency or designee asking for temporary assistance. ~~Nothing in this Subsection shall be construed to expand the authority of Natural Resources Enforcement Officers to initiate or conduct an independent investigation into violations of criminal laws outside the scope of their subject-matter or territorial jurisdiction.~~

(e) ~~Natural Resources Enforcement Officers~~ Game Wardens may serve arrest warrants, search warrants, order for arrest, criminal summonses, subpoenas, and all other process connected with any cases within their subject-matter jurisdiction. In the exercise of their law enforcement powers, ~~Natural Resource Enforcement Officers~~ Game Wardens are subject to provisions relating to law enforcement officers in general set out in Chapter 15, Chapter 15A, and elsewhere.

(f) ~~Natural Resources Enforcement Officers~~ Game Wardens are authorized to stop temporarily any persons they reasonably believe to be engaging in activity regulated by the Fisheries and Wildlife Management Program to determine whether such activity is being conducted within the requirements of the law, including license requirements. If the person stopped is in a motor vehicle being driven at the time and the ~~Natural Resources Enforcement Officer~~ Game Warden in question is also in a motor vehicle, the ~~Natural Resources Enforcement Officer~~ Game Warden is required to sound a siren or activate a special light, bell, horn, or exhaust whistle approved for law enforcement vehicles under the provisions of N.C.G.S. 20-125(b) or 20-125(c), as adopted by the Tribe.

(g) ~~Natural Resources Enforcement Officers may not temporarily stop or inspect vehicles proceeding along primary highways of the Tribe without clear evidence that someone within the vehicle is or has recently been engaged in an activity regulated by the Fisheries and Wildlife Management Program.~~ Natural Resources Enforcement Officers Game Wardens may temporarily stop vehicles, boats, helicopters, and other conveyances upon reasonable grounds to believe that they are transporting natural resource products; they are authorized to inspect any products being transported to determine whether they were taken in accordance with law and to require exhibition of any applicable license, receipts, permits, or other identification required to accompany such products.

(h) Reserved.

(i) Reserved.

(j) The refusal of any person to stop in obedience to the directions of a ~~Natural Resources Enforcement Officer~~ Game Warden acting under the authority of this Section is unlawful. ~~Natural Resources Enforcement Officers~~ Game Wardens shall be considered as law enforcement officers within the meaning of ~~Sec. 14-70.16, 14-70.17, 14-70.19 and~~ Chapters ~~4, 14, and~~ 4, 14, and 20 of the Cherokee Code.

(k) It is unlawful to refuse to exhibit upon request by any ~~Natural Resources Enforcement Officer~~ Game Warden or other law enforcement officer any license or other item required to be carried by any law or rule as to which the ~~Natural Resources Enforcement Officers~~ Game Wardens have enforcement jurisdiction. It is unlawful to refuse to allow ~~Natural Resources Enforcement Officers~~ Game Wardens or other law enforcement officers to inspect weapons, equipment, fish, or wildlife that the officer

1 reasonably believes to be possessed incident to an activity regulated by any law or rule as to which
2 ~~Natural Resources Enforcement Officers~~ Game Wardens have enforcement jurisdiction.

- 3 (l) Nothing in this Section authorizes searches within the cartilage of a dwelling or of the living quarters
4 of a vessel in contravention of constitutional prohibitions against unreasonable searches and seizures.
5

6 **Sec. 113-16. Effective date.**

7 This Chapter shall be effective upon ratification by the Principal Chief and shall be published in the
8 Cherokee One Feather for two consecutive weeks thereafter.
9

10 **Secs. 113-17—113-19. Reserved.**
11

12
13 **ARTICLE II. REGULATING PRIVATE HUNTING AND FISHING ON THE POSSESSORY**
14 **HOLDING OF ANOTHER**

15 **Sec. 113-20. Definitions.**

16 The following definitions apply in this Article:

- 17 (1) *Entry permit*. The described in section 113-22.
18 (2) *Posted property*. Registered property that is posted in substantial compliance with section 113-
19 21(d).
20 (3) *Registered property*. Property that has been accepted for registration by the Fish and Wildlife
21 Management Program as provided in section 113-21, and has not been deleted from registration.
22 (4) *Possessory holder*. The current possessory holder of record of a parcel.
23 (5) *Manager*. The Manager of the Fish and Wildlife Management Program.
24

25 **Sec. 113-21. Registration and posting of property.**

- 26 (a) A possessory holder who controls the hunting, fishing, or hunting and fishing rights to a parcel and
27 wishes to register it under this Article must apply to the Fish and Wildlife Management Program in
28 accordance with this section.
29 (b) The registration application must contain:
30 (1) A statement under oath by the applicant that he/she has the right to control hunting or fishing, or
31 both, on the parcel to be registered. If the applicant is not a possessory holder, he/she must file a
32 copy of his/her lease or other document granting him/her control of hunting, fishing, or hunting
33 and fishing rights on the parcel.
34 (2) Three copies of a description of the parcel that will allow law-enforcement officers to determine
35 the field, and prove in court, whether an individual is within the boundaries of the parcel. This
36 description may take the form of a map, plat, aerial photograph showing boundaries, diagram
37 keyed to known landmarks, or any other document or description that graphically demarks the
38 boundaries with sufficient accuracy for use by officers in court and in the field. Any amendment
39 of the boundaries of a registered parcel must be accomplished by a new registration application
40 meeting the requirements of this subsection.
41 (3) An agreement by the applicant to post the parcel in accordance with the requirements of this
42 section and to make a continuing effort to maintain posted notices for the parcel.
43 (4) An agreement by the applicant to issue or cause issuance of an entry permit to all individuals to
44 whom he/she or his/her authorized agent gives permission to hunt or fish on the tract. The
45 applicant must file the name and signature of any agent authorized by him/her to issue the entry
46 permit, and a registrant must amend his/her application to rescind the agent's authority and to
47 substitute or add an authorized agent.
48 (5) A fee of ten dollars to cover the administrative costs of processing the registration application.
49 (c) The manager of the Fish and Wildlife Management Program must examine any submitted application
50 to determine whether the requirements of subsection (b) have been fully met. If he determines that
51 these requirements have been met and if his inquiries of persons with knowledge of the locality of the

1 parcel corroborate the truthfulness and accuracy of the information in the application, he must register
2 the tract of property and notify the registrant of his action. Registration consists of filing the
3 application in a central registry open to the public with an indication whether the parcel is registered
4 as to hunting, fishing, or both. Upon registration, the Manager must send, for the information of
5 protectors and other law-enforcement officers, the two duplicate copies of the description of the parcel.
6 The Manager must also furnish officers with copies of the signatures of registrants and their authorized
7 agents and other pertinent information for enforcement of this Article.

8 (d) A registrant must post his/her registered property as soon as practicable after receiving notice that the
9 parcel was accepted for registration. Posted notices must measure at least 120 square inches; contain
10 the word "POSTED" in letters at least three inches high; state that the property is registered with the
11 Fish and Wildlife Management Program and that hunting or fishing, or both, are prohibited without
12 an entry permit; and set out the name and address and, if feasible, the telephone number of the person
13 to contact for an entry permit. At least one notice must be conspicuously posted on the registered
14 property not more than 200 yards apart close to and along the boundaries. In any event at least one
15 notice must be placed on each side of the registered property, one at each corner, and one at each point
16 of entry. A point of entry is where a roadway, trail, path, or other way likely to be used by entering
17 sportsmen leads into the tract. If registered property is posted only with respect to fishing, it is
18 sufficient if the notices prohibit fishing without permission, and are posted at intervals of not more
19 than 200 yards along the stream or shoreline and at points of entry likely to be used by fishermen.
20 Notices posted along the boundaries of a tract must face in the direction that they will be most likely
21 seen by persons entering the tract. Notices posted along a stream or shoreline must face in the direction
22 that they will most likely be seen by anyone intending to fish. With respect to any particular hunter or
23 fisherman, or person who has entered to hunt or fish, there is substantial compliance with this
24 subsection, notwithstanding that one or more of the required notices may be absent, illegible, or
25 improperly placed, if any notice is or has been reasonably visible to him while he was within or
26 approaching the registered parcel.

27 (e) If a registrant loses his/her proprietary interest or his/her control of the hunting, fishing, or hunting
28 and fishing rights as to which he/she has registered the property, he/she must within 20 days notify
29 the manager. If a new person who controls those rights wishes to continue the registration of the tract,
30 he/she must make application under the terms of subsection (b), except that no copies of the parcel's
31 description need be filed if there is no change of boundaries. When the Manager receives the notice
32 under this subsection, or otherwise learns that a registrant has lost his/her proprietary control of the
33 applicable hunting, fishing, or hunting and fishing rights, and there is no pending application to
34 continue registration of the parcel, the Manager must immediately delete registration of the parcel,
35 notify the presently responsible landholder, and require him/her to remove any remaining posted
36 notices.

37 (f) A person who controls the hunting, fishing, or hunting and fishing rights to registered property may
38 apply to the Fish and Wildlife Management Program in writing to delete the registration of the parcel.
39 If he/she is not the registrant, he/she must satisfy the Manager of his/her present right to control the
40 applicable hunting and fishing rights. If he/she is the registrant, his/her statement that he/she still
41 controls the applicable rights on the tract is sufficient unless the Manager has reason to require further
42 evidence on this point. Upon determination that an application to delete is proper, the Manager must
43 immediately delete registration of the tract, notify the presently responsible landholder, and require
44 him/her to remove any remaining posted notices.

45 (g) Any law-enforcement officer or any employee of the Fish and Wildlife Management Program who
46 determines that a registrant has failed to keep registered property posted in compliance with subsection
47 (d) must so notify the registrant or his agent. If within a reasonable time after notice the registrant fails
48 to take steps to post or repost the tract, the Manager must immediately delete registration of the tract,
49 notify the presently responsible possessory holder, and require him/her to remove any remaining
50 posted notices.

- 1 (h) A possessory holder's failure to cause the removal of all posted signs within a reasonable time after
2 receipt of notice that the tract has been deleted from registration is a misdemeanor.
3

4 **Sec. 113-22. Entry permits furnished by Fish and Wildlife Management.**

- 5 (a) Upon registration of property, the Manager must furnish the registrant with a reasonable number of
6 standardized permit forms to be carried by individuals given permission to hunt or fish on the
7 registered property. The Manager must establish a procedure for resupplying registrants with entry
8 permits for their registered property as needed.
9 (b) To be valid, the entry permit must be issued and dated within the previous 12 months and signed by
10 the registrant or an authorized agent whose signature is on file with the Fish and Wildlife Management
11 Program.
12

13 **Sec. 113-23. Affirmative duty of sportsmen to determine if property is registered and posted.**

14 Every individual who enters the property of another to hunt or fish without having first obtained
15 permission from an authorized person in control of hunting and fishing rights or his agent is under a duty
16 to look for posted notices. In the apparent absence of such notices, the individual intending to enter is
17 nevertheless under a duty to determine if practicable whether the property is registered under the terms of
18 this Article.
19

20 **Sec. 113-24. Hunting or fishing on registered property of another without permission.**

- 21 (a) No one may hunt or fish, or enter to hunt or fish, on the registered and posted property of another
22 without having in possession a valid entry permit issued to him/her.
23 (b) No one may hunt or fish, or enter to hunt or fish, on the registered property of another without having
24 in possession a valid entry permit issued to him/her if he/she has reason to know the property had been
25 posted.
26 (c) A violation of this section is a misdemeanor.

27
28 **Sec. 113-25. Removal, destruction, or mutilation of posted notices.**

29 Unauthorized removal, destruction, or mutilation of posted notices on registered property is a class 2
30 misdemeanor.
31

32 **Sec. 113-26. General provisions pertaining to enforcement of Article.**

- 33 (a) If a possessory holding is registered, the original or a true copy of the application and all supporting
34 items are admissible in evidence. The registrant's affidavit that he/she has the right to control hunting,
35 fishing, or hunting and fishing on the registered property constitutes prima facie evidence of the facts
36 so asserted. The description filed with the application constitutes prima facie evidence of the
37 boundaries of the registered property.
38 (b) If an individual hunts or fishes, or enters to hunt or fish, on registered property that is or had been
39 posted, any registrant or his agent, any possessory holder of that property, and any protector or other
40 law-enforcement officer may request that the individual produce a valid entry permit.
41 (c) In addition to protectors, it is the duty of law-enforcement officers with general enforcement
42 jurisdiction to investigate reported violations of this Article and to initiate prosecutions when they
43 determine that violations have occurred.
44 (d) Any entry permit issued to an individual does not substitute for any required, hunting or fishing
45 license.
46

47 **Appendix A. Schedule of civil penalties.**

48 Violations of the provisions enumerated here shall subject the offender to a civil penalty upon the
49 issuance of a citation for such violation as provided in this Section. The civil penalty, if not paid to the
50 Cherokee Tribal Court prior to court date designated on the citation issued, may be recovered by the Tribe
51 in a civil action in the nature of Tribal debt. Unless otherwise provided by a specific provision of this Code,

such civil penalties shall be in the amount of \$100.00 for each violation, and each day any single violation continues shall be a separate violation. The following civil penalties are hereby established:

Infractions §113-5(c)		
Number	Offense	Fine for Violation
1.	Exceeding creel limit (violation per fish over limit)	\$100.00
2.	Fishing without a permit	100.00
3.	Snagging of fish	100.00
4.	Grabbing of fish	100.00
5.	Chumming of fish	100.00
6.	Fishing with more than one line	100.00
7.	Setting of trotline	200.00
8.	Fishing in closed streams, ponds or waters	100.00
9.	Fishing before or after legal fishing hours	100.00
10.	Failure to keep individual's catch separate	50.00
11.	Failure to retain all trout caught, when fishing Tribally managed ponds	100.00
12.	Illegally caught trout	50.00
13.	And additional fine for each fish caught in violation of statutes	50.00
14.	Camping in unauthorized area	100.00
15.	Failure to report a bait site, per bait site	100.00
16.	Illegal cutting of wood or timber	75.00
17.	Hunting on Sunday	75.00
18.	Hunting or fishing Fishing without the proper license	100.00
19.	Failure to produce valid license and/or permit	25.00
20.	Failure to wear hunter orange while hunting	25.00
21.	Use or possession of illegal bait	100.00
22.	Use of improper equipment	100.00
23.	Running dogs out of season	100.00
24.	Failure to report to NREO	100.00
25.	Bribing or attempted bribery of a Natural Resource Enforcement Officer	100.00
26.	Removing and/or destroying tracking devices or identification collar from dogs	100.00
27.	Feeding, approaching, or harassing elk or white-tailed deer	100.00
28.	Feeding, approaching, or harassing bear (not including legal hunting or baiting)	100.00
29.	Feeding or harassing waterfowl	100.00
30.	Hunting without the proper license/tag	<u>1000.00</u>

1
2 BE IT FINALLY ORDAINED, that all ordinances and resolutions inconsistent with this ordinance
3 are rescinded, and this ordinance shall become effective upon ratification by the
4 Principal Chief.
5
6

7 *Submitted by Michael LaVoie, on behalf of the Natural Resources Department.*