

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

Date: _____

ORDINANCE NO. _____ (2026)

An ordinance creating Cherokee Code Chapter 47C establishing Tribal Realty Services in the Cherokee Code.

WHEREAS, Tribal Realty Services is the place for official recording of documents and other instruments affecting or describing ownership of interests in Tribal land, including, but not limited to, possessory holding transfers, residential and commercial leases, deed of trusts, and plats; and

WHEREAS, additionally, Tribal Realty Services drafts legal documents for the wider public such as transfer documents, estate resolutions, leases that comply with 25 C.F.R. Part 162, and plats; and

WHEREAS, Tribal Realty Services include Realty Services, Geographic Information Systems, and Surveying, however, Tribal Realty Services has not been recognized or authorized in the Cherokee Code; and

WHEREAS, the proposed ordinance would create Chapter 47C in the Cherokee Code and establish Tribal Realty Services; and

WHEREAS, Chapter 47C would additionally clearly place these responsibilities with Tribal Realty Services, as well as authorize them to promulgate certain rules and regulations to establish standards for the office such as recording standards for documents that affect interests in Tribal land, procedures for public record requests, document standards, and indexing standards.

NOW THEREFORE BE IT ORDAINED by the Eastern Band of Cherokee Indians in Tribal Council assembled, at which a quorum is present, that the Cherokee Code is amended as follows:

CHEROKEE CODE CHAPTER 47C

TRIBAL REALTY SERVICES

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20
21 **ARTICLE II**
22 **DEFINITIONS**
23

24 **Sec. 47C-1. – Definitions.**

- 25
26 (a) “Grantee” means any person or entity having the legal capacity, such as a mortgagor,
27 lessee, or buyer, who receives any interest in real property by assignment, deed, gift,
28 mortgage, lease, installment contract, rental agreement, or other agreement from a
29 grantor; such term shall include any person or entity on any instrument affecting real
30 property who is granted an interest in real property by another.
31
32 (b) “Grantor” means any other person or entity, such as a mortgagee, lessor, or seller, who
33 has an interest in real property and assigns, sells, mortgages, leases, conveys by
34 installment contract, rents, or otherwise transfers all or some of its interest in such real
35 property; such term shall include any person or entity on any instrument affecting real
36 property who grants an interest in real property to another.
37
38 (c) “Improvements” means buildings or structures of all kinds which are additions to the
39 land upon which they stand, whether permanent or not, and which may or may not
40 enhance the value of the land.
41
42 (d) “Owner” means the person recognized under Tribal law as having the right to have and
43 hold the thing at issue, and who may assert rights as the lawful possessor of a
44 possessory interest in Tribal trust land.
45
46 (e) “Person” means an individual or the Tribe.

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2 (f) “Possessory interest” or “possessory holding” means an area or parcel of Tribal land
3 that has been assigned to or is recognized by the Tribal government as being the holding
4 of the Tribe, a Tribal member, or group of Tribal members, or their first-generation
5 heirs. The assignment or recognition grants to the holder of the interest certain rights,
6 enumerated in Tribal law, in the possessory interest.
7
8 (g) “Recording” or “recordation”, means the official acceptance of a document by Tribal
9 Realty Services. The purpose of recording is to provide evidence of a transaction, event,
10 or happening that affects the recognized ownership of possessory interests or holdings
11 in Tribal trust land, and particularly that affect the right to have and hold a possessory
12 interest in Tribal trust land; to preserve a record of the document; and to give notice of
13 the ownership and change of ownership or leasing as to possessory interests in Tribal
14 trust land, and the existence of encumbrances applicable to the possessory interest at
15 issue.
16
17 (h) “Title document” means any document that encumbers Tribal trust land or
18 improvements thereon, or that purports to affect the assignment or ownership of a
19 possessory interest or improvements thereon.
20
21 (i) “Transfer” means to sell, convey, pledge or give the thing at issue from one person to
22 another. The term “transfer” shall be construed broadly.
23
24 (j) “Tribal land” means real property owned or possessed by the Tribe, interests created
25 by the Tribe for its Tribal members, and includes that which is held in trust for the Tribe
26 by the United States.
27
28 (k) “Tribal member” means an enrolled member of the Eastern Band of Cherokee Indians.
29
30 (l) “Tribal trust land” means real property that is held in trust for the benefit of the Tribe
31 by the United States.
32
33 (m) “Tribe” means the Eastern Band of Cherokee Indians.
34

35 **ARTICLE III.**
36 **TRIBAL REALTY SERVICES**

37
38 **Sec. 47C-2. Establishment of Tribal Realty Services.**
39

40 There is hereby established Tribal Realty Services. Tribal Realty Services shall be the place
41 for official recording of title documents and other instruments affecting ownership of interests in
42 Tribal land.
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44 **Sec. 47C-3. Duties.**
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46 Tribal Realty Services shall have the following duties:

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- (a) It shall be the place for the official recording of instruments that affect possession of Tribal land.
 - (b) It shall be the place for the official recording of plats, surveys, and grants of rights of way and easements affecting Tribal land.
 - (c) It shall be the place for the official recording of other instruments for which recording is required or desired to provide legal notice of instruments affecting Tribal land.
 - (d) It shall be the place where Tribal members may request for title documents or instruments that affect an interest in a possessory holding or Tribal land to be drafted.
 - (e) Tribal Realty Services shall provide custody of, and shall maintain, all instruments recorded with Tribal Realty Services, and all instruments affecting title to Tribal land, and it shall be the official custodian of recorded instruments.
 - (f) Tribal Realty Services shall provide or shall work with other Tribal programs or agents to provide a system for mapping Tribal land in written form and/or in electronic form as well as to provide electronic and online access to such maps and develop policy and procedure to provide access to the general public in a manner that supports public records laws and protects the integrity and security of all documents and instruments in its possession.
 - (g) Tribal Realty Services may provide, by itself or in conjunction with other Tribal programs or agents, a system for electronic and online access to recorded instruments.
 - (h) Tribal Realty Services may employ personnel as necessary to accomplish the purposes of this chapter.

31 **Sec. 47C-4. Director of Tribal Realty Services.**

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33 Tribal Realty Services shall have a Director who shall have the title of Director of Tribal Realty Services, and whose duties shall be to direct, manage, and supervise the operations of Tribal Realty Services. The Director shall be within the employ of Tribal Realty Services and shall be an employee of the Tribe.

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38 **Sec. 47C-5. Acting Director authorized to act.**

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- (a) The Director is authorized to appoint one or more employees of Tribal Realty Services to act on behalf of the Director of Tribal Realty Services in their absence and shall be valid and for which the Director shall be officially responsible.
 - (b) The Director may authorize one or more employees of Tribal Realty Services, in addition to other powers and duties, to record and sign instruments and documents in

1 the name and under the title of the Director, by himself as assistant or deputy, as
2 appropriate. Such signing shall be substantially as follows:

3
4 John Doe, Director of Tribal Realty Services
5 by Richard Roe, employee job title
6

7 (c) Such recording and signing, when regular and sufficient in all other respects, shall be
8 valid for all purposes, and of the same force and effect as if the instrument or document
9 had been recorded and signed by the Director personally.

10
11 (d) Any and all acts and duties performed by any one or more employees of Tribal Realty
12 Services, appointed and acting under the provisions of this section after a vacancy of
13 the Tribal Realty Director which may have occurred from any cause, shall be and are
14 hereby validated, ratified, and confirmed to all intents and purposes as if performed by
15 the Director of Tribal Realty Services. The provisions of this validating act shall
16 include, but not be restricted to, all acts and duties of the Tribal Realty Director, or the
17 appointed one or more employees of Tribal Realty Services, as enumerated and set
18 forth under the specific provisions of this Chapter, or under the provisions of any other
19 Chapter as set forth in the Cherokee Code.
20

21 **Sec. 47C-6. Official custodian of records.**

22
23 Tribal Realty Services shall be the official custodian of all instruments affecting possessory
24 holdings and possession of Tribal land, and the place for official recording of those instruments.
25

26 **Sec. 47-7. Savings clause.**

27
28 All documents affecting interests in Tribal land that were executed before the effective date
29 of this chapter that were in compliance with the law in effect at the time of their execution shall be
30 deemed in conformity with this chapter.
31

32 **Sec. 47C-8. Public records law applies.**

33
34 Documents for which Tribal Realty Services is the custodian are subject to the Tribal public
35 records law, Cherokee Code Chapter 132.
36

37 **Sec. 47C-9. Title documents regarding improvements.**

38
39 Title documents affecting improvements on Tribal land shall be recorded under this
40 chapter.
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42 **Sec. 47C-10. — Recording gives notice and priority**

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44 (a) An instrument recorded in accordance with this chapter shall be notice to all persons
45 and entities of the existence of the transaction or transfer and any rights, interests, or
5 liabilities created thereby.

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2 (b) An instrument recorded in accordance with this chapter shall have priority over any
3 instrument, lien, or claim not recorded at the time of such recording unless there is
4 notice, actual or constructive, of the existence of such unrecorded instrument, lien, or
5 claim.

6
7 (c) Instruments executed before enactment of this chapter shall not be subject to
8 subsection (b) of this section. Unless otherwise expressly provided by Tribal law,
9 instruments executed before the enactment of this chapter shall have priority over any
10 subsequent instrument, lien, or claim if the prior instrument has been recorded in
11 accordance with this chapter or if there is notice, actual or constructive, of the existence
12 of the prior instrument.

13
14 (d) An unrecorded instrument shall have priority over any subsequent unrecorded
15 instrument, lien, or claim.

16
17 **Sec. 47C-11. Exception for last will and testaments.**

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19 A testator's Last Will and Testament that purports to give an interest in real property of
20 any kind (including Tribal land and deeded land) to another person or entity does not have to be
21 recorded in Tribal Realty Services to be effective and enforceable.

22
23 **Sec. 47-12. Recording of documents affecting interests in land.**

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25 All documents affecting interests in land requiring Tribal Business Committee approval
26 shall be recorded with Tribal Realty Services to be enforceable.

27
28 **Sec. 47C-13. Recording of originals and certified copies.**

29
30 The Director shall first require that a document presented for recording shall be the original
31 document; provided, however, if the original is not available, the Director may accept a copy,
32 provided the copy bears an original certification signed and sealed by a notary public or other
33 authorized official and indicating that the copy is a true and accurate reproduction of the original.

34
35 **Sec. 47C-14. Return of original instruments.**

36
37 The Director shall keep all original instruments delivered for recording except upon
38 application by any person entitled to take custody of the originals, the Director shall deliver the
39 originals to the person so entitled. The Director may require the person seeking custody of an
40 original instrument to provide written verification that he or she is so entitled, but delivery to the
41 person entitled shall not be unreasonably denied.

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43 **Sec. 47C-15. General index kept.**

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45 The Director shall maintain a consolidated index of all the title documents and other
46 documents affecting real property in Tribal Realty Services.

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2 **Sec. 47C-16. Index and cross-index of immediate prior owners of land.**
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4 Whenever any title document or other instrument conveying real property by a trustee,
5 mortgagee, commissioner, or other Department appointed by the court, or by law enforcement
6 under execution, is filed with the Tribal Realty Services for the purpose of being recorded, it shall
7 be the duty of the Director to index and cross-index as grantors the names of all persons recited in
8 the instrument to be the persons whose interest in such real estate is being conveyed or from whom
9 the title of such real estate was acquired by the grantor in the instrument.
10

11 **Sec. 47C-17. Minimum standards for document management.**
12

13 The Director shall establish sound management practices and minimum standards for the
14 uniform storage, retrieval, maintenance, preservation, and accessibility of title documents, land
15 records, and documents recorded with Tribal Realty Services; the uniform recording and indexing
16 of the same; the uniform recording and indexing procedures for maps, plats, and condominiums;
17 the security and reproduction of title documents, land records, and documents recorded with Tribal
18 Realty Services; a centralized recording system for the same; filming, filing, and recording
19 techniques and equipment; and the computerized records systems.
20

21 **Sec. 47C-18. Modernization of title documents and land records.**
22

23 (a) The Director may require that title documents and land records, including but not
24 limited to any map or instrument presented for recording and which affects title to
25 Tribal trust land satisfy, at a minimum, the following requirements:
26

27 (1) The name and address of the person to whom the map or instrument is to be
28 returned is affixed on the face of the map or instrument.
29

30 (2) The grantee's or owner's permanent mailing address is affixed on the face of the
31 map or instrument.
32

33 (b) Failure to comply with the requirements in (a)(1) and (a)(2) of this section shall not
34 affect the validity of any map or other instrument that is duly recorded.
35

36 **Sec. 47C-19. Title documents not signed after one year of posting are void.**
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38 Title documents drafted by Tribal Realty Services that are not signed by the parties named
39 in the document within one year, measured from the tenth day of its posting date as required in
40 Cherokee Code § 47B-6, are void, unless the title document was authorized by a resolution enacted
41 by Tribal Council and ratified by the Principal Chief.
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43 **Sec. 47C-20. Uniform fees.**
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45 Tribal Realty Services may establish, impose, and collect uniform fees for services.
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1 Sec. 47C-21. Tribal Realty Services rules and regulations.
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3 Tribal Realty Services is hereby authorized to promulgate formal administrative rules and
4 regulations affecting real property and in furtherance of this chapter under Cherokee Code Chapter
5 150.
6

7 BE IT FINALLY ORDAINED that all ordinances that are inconsistent with this ordinance are
8 rescinded and this ordinance shall become effective when ratified by the Principal
9 Chief.
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11 *Submitted by Cruz Galaviz, Director of Tribal Realty Services*