

TABLED

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

Date: OCT 22 2015

ORDINANCE NO. 37 (2015)

WHEREAS, Cherokee Code (C.C.) section 117-38 addresses the legislative reading and form of ordinances proposed to be considered by the Eastern Band of Cherokee Indians (EBCI) Tribal Council; and

WHEREAS, C.C. section 117-38(b) allows for the introduction of emergency legislation, however under this subsection even emergency legislation must be automatically tabled by the Chair for not less than 25 calendar days after the initial reading; and

WHEREAS, C.C. section 117-38(c) states that only those ordinances which have been tabled for the above mentioned 25-day waiting period "may be brought to the floor for consideration, debate, motions, amendments and passage"; and

WHEREAS, There may arise circumstances in cases of emergency or necessity which require the expeditious consideration, debate, motion, amendment and/or passage of a proposed ordinance.

NOW THEREFORE BE IT ORDAINED by the Eastern Band of Cherokee Indians in Annual Council assembled, at which a quorum is present, that section 117-38 of the Cherokee Code be amended to include an exception to the 25-day waiting period for consideration, debate, motion, amendment and/or passage of a proposed ordinance and to add a format for reading and the form of resolutions to read as follows:

Sec. 117-38. - Legislative reading ordinance; form of ordinances.

(a) No ordinance enacted by the Tribal Council shall be valid unless it has been introduced in compliance with subsection (b) at a regular or special session not less than 25 calendar days prior to the day the ordinance has been voted upon by the Council.

(b) All ordinances proposed to be considered by the Tribal Council shall be either placed on the agenda by the Clerk or introduced by the Principal Chief as emergency legislation. The Clerk shall assign the ordinance a number and read the ordinance into the record. By majority vote, the Tribal Council may waive the reading requirement and deem the ordinance read into the record. After the reading of the ordinance, unless clauses (1) and (2) of this subsection apply, the Council may discuss the proposed ordinance but no member may propose any motion or amendment to the ordinance at the first reading. At the conclusion of discussion the Chair shall automatically table the ordinance and either assign the ordinance to a Committee for further

investigation or study or direct that the ordinance be placed on the agenda at the next scheduled Council session that is not less than 25 calendar days after the first reading.

(1) In the case of an emergency or as otherwise mandated based on necessity, the Tribal Council may by majority vote waive the 25-day waiting period required for a proposed ordinance to be subject to consideration, debate, motion, amendment or passage.

(2) If after a majority vote, the 25-day waiting period is waived, a proposed ordinance introduced as emergency legislation which meets all requirements of subsection (d) of this section will be effective upon passage by majority vote of Tribal Council and after ratification by the Principal Chief.

(c) All ordinances appearing on the Council agenda for the second time, after the required 25-day waiting period, may be brought to the floor for consideration, debate, motions, amendments and passage.

(d) All proposed ordinances shall be drafted to include:

(1) A background ("whereas") section describing the history of the issue, prior ordinances and resolutions related to the matter, and the need or reason for the proposed ordinance or amendment;

(2) Language to enact the proposed ordinance or amendment ("now therefore be it ordained . . .");

(3) The proposed ordinance;

(4) When an amendment is proposed, it shall include the Cherokee Code section number of the existing ordinance, the existing language of the section(s) proposed to be amended, and enough of the existing ordinance as is necessary to understand the context of the proposed change, with proposed additions underlined and proposed deletions stricken through;

(5) A clause rescinding all prior resolutions and ordinances that are inconsistent with the proposed ordinance or amendment;

(6) A clause stating that the ordinance or amendment is to be effective upon ratification by the Principal Chief, or at some other proposed time; and

(7) The name of the program, enterprise, committee, or person submitting the proposed ordinance.

(e) The proposed ordinance shall be published by the Tribal Operations Program (TOP) in the Cherokee One Feather for public review and comment.

(f) No cover resolution shall be submitted. The Tribal Council may, in its discretion, consider ordinances that are not in this form when there is an urgent need and there is not sufficient time

to withdraw and redraft the ordinance, provided that the proposed ordinance or amendment is clear.

Sec. 117-38.1 -Resolutions Reading; Form of Resolutions

(a) No resolution passed by the Tribal Council shall be valid unless it has been placed on the agenda by the Clerk, or otherwise accepted as an emergency resolution, and voted upon by the Council.

(b) The Clerk shall assign the resolution a number and place the resolution into the record. Reading resolutions into the record should consist of reading only the Title of the Resolution and the "Now therefore be it resolved" sections proposing the action of Tribal Council.

(c) All proposed resolutions shall be drafted to include a descriptive title of the resolution; and paragraphs that begin with "whereas" to provide the basis for the request being made; and paragraphs that begin with "now therefore be it resolved" to provide for the official request and carrying out of the resolution as follows:

- (1) A Title to the Resolution shall be descriptive of what the purpose of the resolution is or will achieve.
- (2) An initial paragraph ("whereas" section) that summarizes the request being made of Tribal Council, and then include additional paragraphs describing the history of the issue, prior ordinances and resolutions related to the matter, and the need or reason for the proposed resolution; and
- (3) Language to give effect to the proposed resolution ("now therefore be it resolved . . . and the proposed action, position, opinion, or measure to be taken or supported; and
- (4) A clause rescinding all prior resolutions that are inconsistent with the proposed resolution; and
- (5) A clause stating that the resolution is to be effective upon ratification by the Principal Chief, or at some other proposed time; and
- (6) The name of the program, enterprise, committee, or person submitting the proposed resolution.

BE IT FINALLY ORDAINED that all ordinances that are inconsistent with this ordinance are rescinded, and that this ordinance shall become effective when ratified by the Principal Chief.

Submitted by: Principal Chief Patrick Lambert

