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CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

OCT 21 2025

Date: _____

ORDINANCE NO.: 21 (2025)

An ordinance amending the EBCI Tribal Election laws.

WHEREAS, the Eastern Band of Cherokee Indians is a federally recognized Indian Tribe with inherent sovereign powers of self-government and self-determination; and

WHEREAS, pursuant to the EBCI Charter and Governing Document, Tribal Council has established a Board of Elections and enacted rules and regulations for the conduct of Tribal elections, which has been codified in ordinance form at Chapter 161 of the Cherokee Code; and

WHEREAS, the EBCI Board of Elections has worked diligently to identify areas of Tribal election law which would benefit from the changes proposed herein; and

WHEREAS, most of the proposed changes herein are relatively minor and are intended to streamline Board processes, so that the Tribe as a whole will continue to benefit from stable and well-run elections.

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 Cherokee Code Chapter 161 shall be amended as follows:

ARTICLE I. - OFFICES

Sec. 161-1. Election dates.

- (a) The Tribal General Election for the Office of Principal Chief and Vice Chief shall be held on the first Thursday in September 2027, and each four years thereafter.
- (b) The Tribal General Election for the offices of Tribal Council shall be held on the first Thursday in September, 2025, and each two years thereafter.
- (c) The Tribal Primary Election for the offices of Principal Chief and Vice Chief shall be held on the third Thursday in July, 2027, and each four years thereafter.
- (d) The Tribal Primary Election for the offices of Tribal Council shall be held on the third Thursday in July 2025, and each two years thereafter.

Sec. 161-2. Tribal Offices.

- (a) The Principal Chief and Vice-Chief shall be elected and hold office for terms of four years.

- 1 (b) The representatives elected to the Tribal Council shall be elected and hold office for
2 terms of two years. The Tribal Council will consist of 12 members as follows: from Big
3 Cove Township, two members; from Birdtown Township, two members; from Wolfstown
4 Township, two members; from Yellowhill Township, two members; from Painttown
5 Township, two members; from Graham and Cherokee Counties constituting one
6 Township, two members.
- 7 (c) The members of Cherokee School Board shall be elected to hold terms of office for four
8 years. The terms of office shall be staggered, with one representative elected from
9 Birdtown, Wolfstown, and Big Cove in 2025, and each four years thereafter, and one
10 representative elected in Yellowhill, Painttown, and Big Y Community in 2027, and each
11 four years thereafter.
12

13 **Sec. 161-3. Qualification for offices.**

- 14 (a) In order to run for or serve as the Principal Chief or Vice-Chief, a candidate must:
15 (1) Be an enrolled member of the Eastern Band of Cherokee Indians; and
16 (2) Be at least 35 years of age by the date of the general election; and
17 (3) Have resided on Cherokee trust land continuously for at least two years
18 immediately preceding the date of the general election; and
19 (4) Continue to reside on Cherokee trust land during their term of office; and
20 (5) Be a registered voter with the Tribal Election Board.
- 21 (b) In order to run for or serve as a member of the Tribal Council, a candidate must:
22 (1) Be an enrolled member of the Eastern Band of Cherokee Indians; and
23 (2) Be at least 18 years of age by the date of the general election; and
24 (3) Have resided in the township which he or she is to represent for at least 90 days
25 immediately preceding the date of the general election; and
26 (4) Continue to reside in the township in which the candidate was elected during their
27 term of office; and
28 (5) Be a registered voter with the Tribal Election Board.
- 29 (c) In order to run or serve as a member of the Cherokee School Board, a candidate must:
30 (1) Be an enrolled member of the Eastern Band of Cherokee Indians; and
31 (2) Be at least 21 years of age by the date of the general election; and
32 (3) Reside in the community the candidate represents for at least one year
33 immediately preceding the date of the primary election and continue to reside in
34 that community during the term of office; and
35 (4) Have received a high school diploma or the equivalent; and
36 (5) Be a registered voter with the Tribal Election Board.
- 37 (d) No person shall ever be eligible to run for or serve in any of the above Tribal Offices, if:
38 (1) The person has been convicted of a felony; or
39 (2) The person has aided, abetted, counseled, or encouraged any person or persons
40 guilty of defrauding the Eastern Band of Cherokee Indians or has defrauded the
41 Tribe, or who may hereafter aid or abet, counsel or encourage anyone in
42 defrauding the Eastern Band of Cherokee Indians; or
43 ~~(3) The person has been impeached and removed by the Tribal Council from any~~
44 ~~elected office or appointed office, for having violated his or her oath of office or~~
45 ~~being guilty of any offense making the person ineligible to hold said office; or~~
46 Reserved.

- 1 (4) The person fails to meet the residency requirements for elected office.
- 2 (e) No person may file for, run for, or hold more than one Tribal elective office at any one
- 3 time. However, a person may run for Tribal elected office while holding a different Tribal
- 4 office, so long as the person resigns from the current elected office prior to taking the
- 5 oath of office for the newly elected office.
- 6 (f) No person is eligible to hold the office of Principal Chief, Vice-Chief or Tribal Council
- 7 member while simultaneously being a Tribal employee or an employee of a Tribal entity.
- 8 A Tribal employee may run for office, but if elected must resign prior to taking the oath
- 9 of office for Principal Chief, Vice-Chief, or Tribal Council.
- 10 (g) No person is eligible to hold the office for Cherokee School Board Member while
- 11 simultaneously being an employee or student of the Cherokee Central School System. An
- 12 employee of the Cherokee Central School system may run for a seat on the Cherokee
- 13 School Board, but that employee must resign from employment before taking the oath of
- 14 office on the School Board.
- 15 (h) Where this section requires a person to reside or to have resided on Cherokee trust land
- 16 generally or in a particular Cherokee township or community, that requirement shall
- 17 mean that the person has made that place their primary, permanent place of abode for the
- 18 required period. It is where the person lives full-time except for temporary absences of
- 19 relatively short duration. All candidates and elected officials must continue to meet
- 20 residency requirements of their elected office for the duration of their candidacy and, if
- 21 elected, for the duration of their term(s). Any elected official who violates the residency
- 22 requirement shall be ineligible to hold the office. Suspected violations of the residency
- 23 requirement shall be reported to the Board of Elections in writing by the constituency of
- 24 that elected office, e.g., Principal Chief or Vice-Chief residency violations must be made
- 25 by any enrolled member of the Tribe; Tribal Council or School Board member residency
- 26 violations must be made by an enrolled member of the Tribe registered to vote in the
- 27 township of the elected office.
- 28

29 **Sec. 161-4. Filing for office—Certification of candidates.**

- 30 (a) All persons filing to be a candidate for Tribal elected office shall do so under his-or her
- 31 own name and his or her original signature. All documents required to be filed with the
- 32 Board of Elections must bear the original signature of the candidate and shall not be
- 33 signed by any person as an agent acting on behalf of the candidate through a power of
- 34 attorney or other delegation of authority. This requirement applies to all applications for
- 35 candidacy and all other documents required to be filed with the Board of Elections by
- 36 candidates. Nothing in this subsection applies to the marking of ballots.
- 37 (b) All persons filing to be a candidate for Tribal elected office shall do all of the following:
- 38 (1) Pay the required filing fees at the Tribal Finance Office no sooner than the first
- 39 Monday in May and no later than the second Friday in May of the year of the
- 40 election. Persons paying such fees are advised to inform themselves of the hours
- 41 of operation of the Tribal Finance Office.
- 42 a. The filing fee to be a candidate for the office of Principal Chief or Vice
- 43 Chief is \$1,000.00.
- 44 b. The filing fee to be a candidate for a seat on Tribal Council is \$500.00.
- 45 c. The filing fee to be a candidate for a seat on the School Board is \$350.00.

1 Filing fees are non-refundable and shall be paid by cash, cashier's check, electronic payment, or
2 money order. A receipt from the Tribal Finance Office, showing that the applicable filing fee has
3 been paid, shall be submitted with the candidate application forms described in subparagraph (2),
4 below.

5 (2) Submit to the Board of Elections completed and properly executed candidate
6 application forms (also known as filing forms). The same deadline that applies for
7 payment of the filing fees above applies to submission of the candidate
8 application forms.

9 (c) The Board of Elections shall review all applications and other required information, and
10 ensure that the required filing fees have been paid in order to certify that each applicant is
11 eligible to be a candidate for Tribal elected office. If necessary, any applicant shall be
12 required to appear before the Board at a hearing to answer an inquiry about any matter
13 related to an application for candidacy for Tribal elected office.

14 (d) If the applicant meets all of the qualifications to run for Tribal office, and is not ineligible
15 to hold Tribal office pursuant to Section 161-3(d), the Board of Elections shall certify the
16 applicant as eligible to run for the Tribal office sought by the applicant. The Board of
17 Elections shall notify the applicant of its decision by one of the means listed in Section
18 161-29 of this Chapter on or before May 31 of the election year.

19 (e) If the applicant does not appear to meet all of the qualifications to run for Tribal office, or
20 it appears the applicant may be ineligible to run for Tribal office, the Board of Elections
21 shall order a hearing to be held to determine whether the applicant should be certified as a
22 candidate for Tribal office.

23 (1) On or before May 31 of the election year, the Board of Elections shall issue a
24 Notice of Hearing informing the applicant of the date and time the hearing will be
25 held. The hearing shall be held no later than ten business days following issuance
26 of the Notice of Hearing. Notice of the scheduled hearing shall be provided as
27 described in Section 161-29 of this Chapter. The Notice of Hearing to the
28 applicant shall clearly and concisely state the issue or issues identified by the
29 Board which might render the applicant unqualified or ineligible to run for Tribal
30 office and must be addressed by the applicant before the Board.

31 (2) The applicant may request that the Board issue subpoenas for persons or
32 documents which the applicant expects to be relevant to the issue or issues
33 identified in the Notice of Hearing. In its discretion, the Board may issue
34 subpoenas for documents or any person it identifies as having information
35 relevant to the issue or issues contained in the Notice of Hearing provided by the
36 Board. At the hearing before the Board, the applicant shall have the right to
37 present written evidence or oral testimony to address the issue or issues identified
38 by the Board. The North Carolina Rules of Evidence do not apply.

39 (3) The burden of proof shall be on the applicant to prove by a preponderance of the
40 evidence of the record as a whole that he or she meets all of the qualifications to
41 be certified as a candidate for Tribal office and is otherwise eligible to hold Tribal
42 office under the law.

43 (4) The Board shall issue a final written decision within five business days following
44 the hearing. The panel may:

- a. find that the applicant meets all of the qualifications for office and is otherwise eligible under the law to hold Tribal office and certify the applicant to be a candidate for Tribal office; or
 - b. find that the applicant meets all of the qualifications for office but is otherwise ineligible under the law to hold Tribal office, and deny certification; or
 - c. find that the applicant does not meet the qualifications for office and deny certification.
- (5) A final decision by the Board of Elections to deny certification to an applicant to be a candidate for Tribal office may be appealed by the applicant to the Cherokee Supreme Court. The decision issued by the Board is not required to take any particular form or to formally express findings of facts and conclusions of law as might be written in a court decision; provided, however, the final decision shall contain sufficient information to enable the Court on appeal, if an appeal is filed, to make an informed judgment as to facts considered by the Board of Elections in making its decision so that the Court can determine whether the Board committed an error of law. The only person with standing to appeal to the Court shall be the person whose certification was denied. Notice of appeal to the Cherokee Supreme Court must be given no later than three business days after the final decision is served on the applicant.
- (f) By June 15 of each election year, the Board of Elections shall publish in the Cherokee One Feather the list of candidates certified to run for each Tribal elected office. In the event a candidate is certified later than June 15 in response to a Court Order, the Board shall then re-publish the list of all certified candidates, including the name(s) of those certified in response to a Court Order, in the next edition of the Cherokee One Feather.
- (g) At the time the applicant files an application to be a candidate for Tribal office, the candidate shall do the following:
- (1) sign an agreement under oath to use the voter registration list provided to the candidate pursuant to Section 161-11.3 of this Chapter only for truthful communications with eligible voters in connection with the election and to clearly identify himself/herself in all such election-related communications;
 - (2) affirm in writing and under oath that the candidate has reviewed and is aware of, understands and agrees to follow the Tribe's election law, including, but not limited to, the following:
 - a. the residency requirements for the office sought; and
 - b. the qualification and eligibility criteria to be a candidate for the office sought; and
 - c. that communications by the candidate with the Board and with public shall be truthful; and
 - d. that the candidate has familiarized himself or herself with the unlawful campaign practices set out in the Tribe's election law; and
 - e. that any violations of the requirements for candidacy or of the candidate's oath shall be grounds for decertification by the Board of Elections.
- (h) Any claims or complaints of a violation of Tribal election law by a candidate shall be made in writing to the Board of Elections for investigation.

1 **Sec. 161-4.1. Decertification of a candidate.**

- 2 (a) If at any time before the primary, general, or special election date at issue, a candidate for
3 elected office is no longer qualified or eligible to hold Tribal office, the Board of
4 Elections may decertify that person as a candidate.
- 5 (b) Once the Board has certified a candidate to run for Tribal office:
- 6 (1) Any enrolled member of the EBCI who is registered to vote in Tribal election(s)
7 may file a protest seeking to decertify the candidate from running for Tribal
8 office. All protests must be submitted to the Board of Elections in writing and on
9 forms provided by the Election Board or, if not on forms provided by Board, then
10 in a typed or legible writing. Each protest shall contain sufficient detail to give the
11 Board notice of the facts that the protester asserts support decertification. All
12 protests shall, at a minimum, contain the following information: (1) the name,
13 mailing address, physical address, telephone number and email address (if one is
14 available) of the protester; (2) the dates and approximate times of the act(s) being
15 protested; (3) a description of the subject of the protest; (4) the name, mailing
16 address, telephone number and email address (if one is available) of all witnesses
17 known to the protester; and (5) copies of all supporting records, photos and other
18 documentary evidence in the possession or control of the protester that the
19 protester wants the Board to consider. All protests must include a sworn statement
20 signed by the protester, before a notary, that the allegations presented in the
21 protest are true or that the protester, upon information and belief, believes them to
22 be true.
- 23 (2) The Board of Elections may on its own initiative begin an investigation into the
24 decertification of a candidate at any time before the election date at issue.
- 25 (c) If the nature of the decertification action is that the candidate is not qualified or is
26 ineligible to hold Tribal elected office, such protest should be filed with the Board no
27 later than ten business days after the Board publishes in the Cherokee One Feather the list
28 of candidates certified for the election at issue. The person filing the protest shall pay the
29 protest filing fee of \$100.00.
- 30 (d) Acting on its own investigation or upon receipt of a timely filed protest to decertify a
31 candidate, the Board of Elections shall give written notice to the candidate at issue within
32 two business days which notice shall inform the candidate that:
- 33 (1) The Board has, upon its own investigation, determined that the candidate may not
34 meet the qualification or eligibility requirements and is subject to being
35 decertified, and the notice shall state the particular grounds supporting
36 decertification, and shall ask the candidate to file a written response to the notice
37 within five business days which addresses the grounds identified by the Board
38 which may support decertification; or
- 39 (2) The Board has received a written protest from a properly registered voter and the
40 protest alleges that the candidate is not qualified or not eligible to be a candidate
41 for Tribal office and should be de-certified. A copy of the protest and all
42 supporting documents submitted by the protestor shall be included with the
43 notice. The Board shall ask the candidate to file a written response to the
44 allegations of the protestor within five business days.
- 45 (3) Notice shall be provided in any of the ways described in C.C. Section 161-29
46 ("Service of communications by the Board of Elections").

- 1 (e) The candidate or the protestor may request a hearing before the Board. Once the Board
2 has reviewed the written response of the candidate, the Board may thereafter order a
3 hearing if there is an issue which has not been resolved by the written response of the
4 candidate.
- 5 (f) If the Board orders a hearing, the Board shall schedule a hearing to be held within ten
6 business days. The Board shall give the candidate and the protestor notice of the hearing
7 in any of the ways described in C.C. Section 161-29 ("Service of communications by the
8 Board of Elections").
- 9 (g) At the hearing before the Board, the parties shall have the right to present written
10 evidence and/or oral testimony to address the alleged grounds for decertification. At the
11 hearing, the burden of proof is on the moving party to prove by a preponderance of the
12 evidence in the record as a whole that the candidate for Tribal office does not meet the
13 qualification or eligibility requirements under Tribal law and should be decertified as a
14 candidate.
- 15 (h) The Board shall issue a final written decision within five business days following the
16 hearing, or if no hearing is ordered, within five business days following receipt of the
17 candidate's written response. The written decision shall express whether or not the
18 candidate satisfies the requirements for the office for which candidacy is sought. The
19 final written decision from the Board of Elections shall be sent to the candidate and the
20 protestor, if any, in any of the ways described in C.C. Section 161-29 ("Service of
21 communications by the Board of Elections"). The decision of the Board of Elections
22 affirming its decision that the person is eligible and remains certified as a candidate, or
23 reversing its decision and decertifying the candidate, may be appealed to the Cherokee
24 Supreme Court by the non-prevailing party. Notice of appeal to the Cherokee Supreme
25 Court must be given no later than three business days after the final decision is served on
26 the non-prevailing party. The Supreme Court shall review the decision of the Board for
27 error of law.
- 28 (i) The timing of the actions expressed in this Section may be altered by the Board of
29 Elections if a decertification action is filed close in time to the election at issue; for
30 example, if an action is filed near in time to an election date, the Board of Elections may
31 shorten the length of time for a candidate to file a written response, may order a hearing
32 on an expedited timeframe, and may take other action necessary to resolve the protest
33 expeditiously and appropriately.

34
35 **Sec. 161-4.2. Reserved.**

36
37 **Sec. 161-5. Primary elections.**

- 38 (a) The two candidates receiving the most votes for the office of Principal Chief and Vice-
39 Chief and the four candidates receiving the most votes for the two Tribal Council seats in
40 each township shall be certified by the Board of Elections, and their names shall be
41 placed on the ballot for the general election.
- 42 (b) The two candidates receiving the most votes for the office of School Board in each
43 district shall be certified by the Board of Elections, and their names shall be placed on the
44 ballot for the general election.
- 45 (c) If two or fewer candidates file and are certified eligible under Section 161-4 for Principal
46 Chief, Vice-Chief, or a district School Board position, then no primary election shall be

1 held for that office, and those candidates shall have their names placed on the ballot for
2 the general election.

3 (d) If four or fewer candidates file and are certified eligible under Section 161-4 for Tribal
4 Council in a particular township, then no primary election for Tribal Council shall be held
5 in that township, and those candidates shall have their names placed on the ballot for the
6 general election.

7 (e) A candidate may voluntarily withdraw his or her name from the election by submitting a
8 written letter to the Board of Elections which clearly and unequivocally states the
9 candidate's desire to no longer be considered as a candidate for office. If a candidate
10 withdraws, and ballots for the election have not been printed, the Board of Elections shall
11 remove the candidate's name from consideration, and it shall not appear on the ballot. If a
12 candidate withdraws after ballots have been printed, the candidate's name shall remain on
13 the ballot, however all votes for that candidate shall be considered null and void. This
14 subsection shall apply to primary, general, special, and run-off elections as applicable.
15

16 **Sec. 161-6. Recounts.**

17 (a) If the vote count in any Tribal election results in a tie, the Board of Elections shall
18 conduct a recount of all ballots cast for that particular office or seat. Such recount shall be
19 conducted by the Board of Elections within two business days after the closing of the
20 polls for that election. The recount shall be performed by the members of the Board of
21 Elections. A "tie" is defined as two or more candidates for the same seat receiving the
22 same number of votes.

23 (b) If any unsuccessful candidate in any Tribal election is defeated by no more than two
24 percent of the total number of votes cast between the unsuccessful candidate and the
25 immediately closest successful candidate, such candidate may request a recount by filing
26 a written request with the Board of Elections within two business days after the closing of
27 the polls for that election. The recount shall be conducted by the Board of Elections
28 within three business days of filing of the request by the unsuccessful candidate.

29 (c) The two percent threshold necessary for a recount shall be measured by answering the
30 following question: is the difference between the number of votes received by the
31 unsuccessful candidate who is seeking the recount, and the immediately closest
32 successful candidate, within two percent of all the votes cast for those two candidates? If
33 the difference is within two percent, the Board of Elections shall conduct a recount if a
34 request for a recount is filed pursuant to this section. Any fraction of a percent over two
35 percent shall be considered outside the two percent threshold requiring a recount.

36 (d) At the conclusion of any such recount, the Board of Elections shall announce the
37 unofficial results of the recount for all candidates for that office pending official
38 certification of the results of the election to the Tribal Council pursuant to Section 161-
39 16.1 of this chapter.

40 (e) Any candidate on a ballot subject to a recount by the Board of Elections may personally
41 observe the recount which will be broadcast and recorded and in a controlled
42 environment. Should the candidate choose to not attend, they may designate one
43 representative to observe the recount. Such representation must be designated in writing,
44 with such written appointment delivered to the Board of Elections prior to the
45 commencement of the recount. Such observers shall not participate in or interfere with

1 the recount activities of the Board of Elections and may be ejected by the chairman if
2 they interfere with or disrupt the recount process.

- 3 (f) Regardless of any other expression in this section, nothing in this section shall prohibit
4 the Board of Elections from recounting ballots upon its own initiative as part of an
5 investigation or for quality control purposes.
6

7 **Sec. 161-7. Run-off elections.**

- 8 (a) The Board of Elections shall have the authority to conduct run-off elections to fill the
9 offices for Principal Chief, Vice-Chief, Tribal Council, and School Board.
10 (b) A run-off election shall be held within 15 calendar days of the decision of the Board of
11 Elections to hold such a run-off.
12 (c) The Board of Elections shall have authority to conduct run-off elections if any of the
13 following occur:
14 (1) The Board determines that a recount of ballots would not produce an accurate
15 vote count; or
16 (2) The Board determines upon research and investigation conducted on its own
17 initiative, or in response to a timely filed protest under C.C. Sec. 161-16, that
18 irregularities unfairly and improperly or illegally affected the actual outcome of
19 the election, and but for the irregularity, the winning candidate would not have
20 prevailed at the polls.
21 (3) The Board determines upon research and investigation conducted on its own
22 initiative, or in response to a timely filed protest under C.C. Sec. 161-16, that
23 irregularities in the conduct of the election rendered the results unreliable by clear
24 and convincing evidence.
25 (d) If, after a recount of ballots by the Board of Elections, two or more candidates running
26 for elected office receives the same number of votes and the individual number of votes
27 cast for each candidate represents the largest vote total by any candidate in the primary
28 election for the last available position on the general election ballot, the Board shall
29 conduct a primary run-off election between such candidates. The candidate receiving the
30 greatest number of votes in that primary run-off election shall be deemed eligible to stand
31 for the general election.
32 (e) If, after a recount of ballots by the Board, in the Tribal Council general election, two
33 candidates receive the same number of votes and the individual number of votes cast for
34 each candidate represents the largest vote total by any individual candidate for that
35 township, there will be no run-off election. The two candidates with the highest vote
36 totals shall be deemed elected to the two Council seats for that township.
37 (f) If, after a recount of ballots by the Board of Elections in the Tribal Council general
38 election, two or more candidates receive the same number of votes that constitute the
39 second highest vote totals by any individual candidate for that township, the Board shall
40 conduct a run-off election between such candidates. The candidate receiving the greatest
41 number of votes in the run-off election shall be deemed elected to the second Council seat
42 for that township.
43 (g) If, after a recount of ballots by the Board of Elections, two or more candidates running
44 for a seat on the School Board, or for the office of Vice Chief, or the office of Principal
45 Chief, receive the same number of votes in the general election and the individual votes
46 totals represent the largest vote total by any individual candidate for that race, the Board

1 shall conduct a run-off election between such candidates. The candidate receiving the
2 greatest number of votes in the run-off election shall be deemed elected to office.

- 3 (h) Should the Board of Elections determine that a recount of ballots would not determine the
4 accurate vote count or make either of the determinations described in subsection (c)(2) or
5 (c)(3) of this section, the Board shall conduct a run-off election between only the
6 candidates that the Board deems necessary to resolve any issues concerning the accuracy
7 of the vote count or to remedy irregularities in the conduct of the election. All decisions
8 made by the Board of Elections in regards to run-off elections shall be final.

- 9 (i) The Board of Elections shall not provide absentee ballots for run-off or special elections.

10
11 **Sec. 161-8. Special election for vacant Tribal Council seat.**

12 In the event a seat on Tribal Council becomes vacant, Tribal Council may order a special election
13 under such rules and regulations as may be prescribed.

14
15 **Sec. 161-9. Referendums/initiatives.**

- 16 (a) Purpose. A referendum is the people's ability to vote on ballot questions approved by
17 Tribal Council. The following rules shall apply.

- 18 (b) Definitions.

19 *Initiative* shall mean the right and procedure by which citizens can propose a law by petition and
20 ensure its submission to the electorate.

21 *Referendum* shall mean the submission of a proposed public measure or actual statute to a direct
22 actual vote.

- 23 (c) Process.

- 24 (1) A referendum/initiative issue shall only be established by resolution of the Tribal
25 Council, duly ratified by the Principal Chief.

26 a. A referendum initiated by Tribal Council does not need a petition.

- 27 (2) A petition requesting the Tribal Council to authorize an election on a
28 referendum/initiative question shall require:

29 a. Twenty-five percent of registered voters to sign a petition in support of a
30 referendum/initiative on a proposed ordinance or action by the Tribal
31 Council or Principal Chief.

32 b. Thirty-three percent of registered voters to sign a petition the Tribal
33 Council for resolution for a referendum/initiative election on a proposed
34 change to the Charter or Governing Document.

- 35 (3) Only tribal members may petition for a referendum on an issue.

- 36 (4) A petition shall be on a standardized form provided by the Board of Elections and
37 shall include the designation of three signatories comprising the Petitioner's
38 Committee with their names, addresses and enrollment numbers; multiple lines
39 for the signee's printed name, signature, date of signature, address, and enrollment
40 number of supporters of the petition; and a full explanation of the proposed action
41 sought by referendum and shall include the full text of the proposed action. The
42 Petitioner's Committee shall be responsible for the content of the proposed
43 legislation. This proposed legislation shall appear on all signature sheets.

- 44 (5) The Petitioner's Committee shall submit the proposed referendum language and
45 the text explaining the proposed action to the Board of Elections for review to
46 pre-certify the referendum issue/question as consisting of only one issue or

1 question prior to collecting signatures on the petition. The Board shall have 60
2 days from the date the Petitioner's Committee submits the referendum language to
3 review the information submitted and to pre-certify the question for the petition.
4 If the Board makes a negative finding, the Petitioner's Committee can revise and
5 resubmit the proposed referendum to the Board.

6 (6) Petition Certification by the Board of Elections.

7 a. Once the Petitioner's Committee has collected all the required signatures,
8 the signed petitions shall be submitted to the Board of Elections for
9 verification that all information required on the petition, including the
10 required number of signatures and all associated information, is
11 contained on the petition. The Board of Elections shall have 90 days to
12 approve or deny certification of the petition. If the Board denies
13 certification, the Petitioner's Committee may attempt to cure the
14 deficiencies and resubmit the signed petitions to the Board.

15 b. Any signature more than one year old on a petition, and any signature of
16 a person who is no longer a registered voter, shall be void and not
17 counted.

18 (7) Submission of Certified Petition to Tribal Council and the Principal Chief.

19 a. After the Board of Elections certifies the petition, the Petitioner's
20 Committee shall submit the certified petition to the Tribal Council. The
21 Tribal Council Chairman shall place the petition on the agenda of the
22 next regularly scheduled Tribal Council session. Nothing in this section
23 requires an immediate decision by Tribal Council assembled, and
24 nothing herein prohibits Tribal Council from tabling the matter for
25 review and other actions within its authority.

26 (8) Required votes.

27 a. Not less than 51 percent of registered voters must vote in a
28 referendum/initiative election on a proposed amendment to the Charter
29 or Governing Document or the election is deemed void.

30 b. Not less than 30 percent of registered voters must vote in a
31 referendum/initiative election to answer a question on a ballot question
32 or the election is deemed void. No decision approved or denied by the
33 voters on an issue shall be reconsidered by Tribal Council for two years.

34 (9) All registered voters shall be eligible to vote on a referendum issue.

35 (10) Referendums for any purpose of this Section shall be conducted by the
36 following procedures:

37 a. The Board of Elections shall conduct a referendum election for any
38 purpose other than that of modifying the Charter and Governing
39 Document in accordance with the date set by Tribal Council in the
40 resolution approving the issue for a referendum vote.

41 b. Within ten business days of ratification of the resolution the Board of
42 Elections shall provide public notice for the upcoming referendum by
43 advertising in the Cherokee One Feather and by mailing notice to all
44 eligible voters. The notice shall contain an election schedule which shall
45 notify all voters of the date of the election and the question(s) to be
46 voted on.

- 1 c.Reserved.
- 2 d. The Board of Elections shall appoint all election officials 30 days prior
- 3 to the election. The Board shall conduct an orientation for election
- 4 officials prior to the election.
- 5 e.The Board of Elections shall issue ballots for referendum in accordance
- 6 with the absentee ballot application process pursuant to the procedures
- 7 set out in this Section.
- 8 f. Persons desiring to vote by absentee ballot may begin applying for such
- 9 ballot immediately after receiving notice of the referendum election and
- 10 all applications to vote by absentee ballot must be submitted or post-
- 11 marked by the U.S. Postal Service not less than 15 days prior to the
- 12 election.
- 13 g. All absentee ballots for referendum election must meet the same criteria
- 14 for any other election and must be returned to and received by the Board
- 15 of Elections on or before 4:00 p.m. of the day of the referendum
- 16 election.
- 17 (11) The outcome of the referendum vote, if it has first met the minimum
- 18 threshold of voters, shall be certified by the Board of Elections and sent to Tribal
- 19 Council for further action.
- 20 (12) Any protest regarding an election irregularity shall be conducted C.C.
- 21 Section 161-16.

22 23 ARTICLE II. VOTERS

24 25 **Sec. 161-10. Qualifications.**

26 To be eligible to vote in any Cherokee election, a person must:

- 27 (1) Be an enrolled member of the Eastern Band of Cherokee Indians; and
- 28 (2) Be at least 18 years of age on the date of the applicable election; and
- 29 (3) Be registered with the Cherokee Board of Elections as set forth in Section 161-11 prior to
- 30 the applicable election.

31 32 **Sec. 161-11. Registration.**

- 33 (a) Voter registration shall be conducted as may be designated by the Board of Elections. The
- 34 office shall be open for registration on all regular business days, except as otherwise
- 35 provided in this section. All voter registration shall only be made in person or through the
- 36 United States Postal Service (USPS) mail; provided, however, that the Board may
- 37 publicize the voter registration process through the Board's website or other social media
- 38 presence. All voter registration cards submitted to the Board must have the tribal
- 39 member's signature notarized and must include a copy of the voter's government issued
- 40 photo ID card.
- 41 (b) Persons who are eligible to vote in EBCI Tribal elections shall register in the township in
- 42 which they currently reside. Tribal members not living on Cherokee Trust Land shall
- 43 register in the township in which they last resided, if applicable. Tribal members who
- 44 have never resided on Cherokee Trust Lands but who are eligible to vote shall register in
- 45 the township in which his/her enrolled mother last resided. If the voter's mother was not
- 46 an enrolled member or never held a residence on Cherokee Trust Land, then the Tribal

member shall register in the township his/her enrolled father last resided, if applicable. In the case that neither the eligible voter's mother or father held a residence on Cherokee Trust Land, then the eligible voter shall register in the township where their nearest matrilineal ancestor currently resides or last resided. If the voter's mother's side of the family is not of Cherokee descent, then the first matrilineal line on the father's side shall be used to determine township, as information permits.

(c) For the purpose of this section the terms "mother" and "father" shall mean biological mother and biological father, unless a legal adoption has occurred, in which case "mother" and "father" shall mean adoptive mother and adoptive father. Eligible voters establishing residence from one township to another must change their registration to reflect the new township. Failure to update their registration may result in the Board of Elections updating the registration.

~~(e)~~(d) The Board of Elections may conduct special registrations within any township if it is deemed advisable.

Sec. 161-11.1. Changes in voter registration.

(a) Once a person is registered by the Board of Elections, they shall remain registered.

(b) Registered voters may terminate their registration by presenting a notarized request to the Board of Elections. This action shall be final upon notification of termination by the Board of Elections.

(c) Persons living in long-term care facilities and those who are displaced due to emergency situations may petition the Board of Elections for a waiver for the change of township requirement ~~in Subsection (a) of this section~~. Waivers may be issued upon proof of displacement.

(d) The Board of Elections shall purge its lists of voters annually for deceased voters in each community.

Sec. 161-11.2. Challenges to voter registration.

(a) When the Board of Elections has or receives evidence demonstrating to the Board's satisfaction that a voter is not registered in the correct township, the Board shall notify the voter in writing and give the voter five business days to submit a township change or to request a hearing as provided below to present information as to why the township should not be changed.

(b) A challenge to a voter's township registration may be made by any enrolled member who is registered to vote in the Tribal election, as provided in Section 161-11.1 through 161-11.3. No protests of a voter's township registration shall be accepted or acted upon by the Board of Elections between April 14 and the first business day following the certification of the general election results. Such challenge the Board shall weigh the evidence provided accordingly and issue the proper investigation required. See C.C. Section 161-16 for proof of residency. The Board shall determine the voter's correct voting township based on the evidence. The Board has the authority to move the voter's registration to the correct township and notify each voter in writing of any changes. No changes shall be made to a voter's township when the registration rolls are closed.

(c) The Board of Elections is authorized to utilize all resources available to properly document a voter's residence for registration purposes. The burden is placed upon the voter to dispute a decision made by the Board of Elections to the registration books

1 regarding a voter's township. Any affected voter may request a hearing before the Board
2 of Elections within five business days from receipt of a change of township notice. The
3 Board shall afford any voter a hearing within five business days from receipt of hearing
4 request. The affected voter has the right to present any witnesses or documentation to the
5 Board of Elections during the hearing. The Board will issue its decision within five
6 business days from the date of the hearing to either rescind or uphold its decision.

7
8 **Sec. 161-11.3. Notice of voter registration.**

- 9 (a) The Board of Elections shall maintain a list of all registered voters in the office of the
10 Board of Elections. The Board of Elections shall mail registered voters notice of any new
11 voter registration laws in order to give voters the opportunity to make corrections to their
12 voter registration as may be necessary.
- 13 (b) The Board of Elections shall prepare and provide to each Tribal Council and School
14 Board candidate a printed and electronic listing of each registered voter within the
15 candidate's township. Candidates for Principal Chief and Vice Chief shall be provided
16 with the listing of all townships. This list shall contain the name and current mailing
17 address for each voter and shall be accessible by the candidate to be utilized
18 electronically for its intended purpose. The voter list shall be furnished to each candidate
19 in printed form, and if requested by the candidate, in electronic form set by field
20 identifiers in a manner to permit the candidate to utilize the list electronically for the
21 intended purpose of communication with the registered voters. All mailing addresses will
22 be provided by the EBCI Enrollment Department. The Board of Elections shall cross-
23 reference registered voters between townships prior to each Tribal election. Except as
24 provided in this subsection, the Board shall not be required to give any other lists or other
25 database information to candidates. The candidates are authorized to use such lists only
26 for lawful communications with registered voters related to the election campaign
27 pursuant to Section 161-4(g) of this Chapter. Only the most recent lists as dated and
28 issued by the EBCI Board of Elections to the candidate shall be deemed valid. Previously
29 dated lists shall not be used for campaigning or comparative purposes.
- 30 (c) The Board of Elections, and election officials appointed by the Board of Elections, shall
31 not release any information regarding an individual's personal voting participation to
32 candidates or the general public. Voter registration information is property of and shall
33 only be issued by the EBCI Board of Elections.

34
35 **Sec. 161-12. Polling places.**

- 36 (a) All designated polling places will be determined by the Board of Elections; and
37 (b) All polling places shall be located on trust land or on other land owned by the Eastern
38 Band of Cherokee Indians which may be adjacent to Tribal trust lands.
- 39 (c) No campaign signs of any kind shall be placed within 100 yards of designated polling
40 places for a period of one week prior to the Election Date. All campaign signs within 100
41 yards of the polling place shall be removed prior to the election date.
- 42 (d) The Board of Elections shall cause all polling places to have operational security cameras
43 onsite and working whenever voting is conducted at the site. Security cameras may
44 record audio, visual, or both. Security cameras shall be used to record activity at the
45 polling place but shall not be placed on ballot equipment or in individual voting booths.
46 Acquisition, control, use and access to the security cameras shall be determined by the

1 Board of Elections, and shall depend on adequate funding for the equipment and
2 personnel being provided by Tribal Council. The security cameras shall be used to
3 provide a visual and/or audio record of activities at the polling place when voting is
4 performed. The records produced by the cameras shall be preserved for not less than one
5 year after the election at issue.

- 6 (e) All polling places shall be managed to provide an opportunity for registered voters to cast
7 their votes in an orderly manner. Minor children may accompany adults to polling places
8 and to the voting machine; provided, however, that no person, regardless of age or any
9 other factor, shall be allowed to disturb or disrupt others who are attempting to cast their
10 vote. Any person causing a disturbance or disruption may be prohibited from entering, or
11 may be removed from, the polling place but such action shall not be used to deny a
12 registered voter their opportunity to vote.
13

14 **Sec. 161-13. Election officials.**

- 15 (a) The board of elections shall appoint election judges, election clerks, door marshalls, and
16 alternates for each such position, to serve in the polling places.

- 17 (b) Qualifications. In order to serve as an election official, individuals must:

- 18 (1) Be enrolled members of the Eastern Band of Cherokee Indians; and
19 (2) Be at least 18 years of age by the date of the election; and
20 (3) Be able to read and write the English language; and
21 (4) Be a registered voter with the Tribal Election Board; and
22 (5) Not be a candidate and work any poll, nor immediately related to any candidate
23 within the township of service, nor have been an active member of any
24 candidate's campaign during that election year, and shall not express support for
25 any candidate during the term of appointment as an election official; and
26 (6) Must be willing to serve in any polling place;
27 (7) Attend and complete the mandatory orientation training seminar provided by the
28 Board of Elections prior to each election;
29 (8) Agree to follow all rules and regulations set forward for Tribal elections; and
30 (9) Agree not to remove any election materials or documents created by election
31 officials for any purpose relevant to the election from Board of Election offices or
32 polling places.

- 33 (c) Election judges.

- 34 (1) Two Election Judges shall be appointed by the Board of Elections for each polling
35 place no later than 30 days prior to all elections, one of whom shall be designated
36 by the Board of Elections as Chief Election Judge.
37 (2) The Chief Election Judge shall be responsible for the overall conduct of the
38 election at the polling place and ensuring the voting process is conducted in
39 accordance with law.
40 (3) The duties of the Chief Election Judge shall include: (a) obtaining the ballot box,
41 tally sheets, and the necessary voter registration information from the Board of
42 Elections on the day of the election and for returning them to the Board at the
43 close of each election day; (b) confirming the registration of individual voters;
44 and (c) ensuring that election officials assist individual voters who seek assistance
45 marking their ballot.

- 1 (4) Election Judges shall work with the Election Clerks to reconcile the ballot totals
2 with the ballot tabulator receipts in their respective polling place.
- 3 (5) Election Judges shall certify the election count totals for each candidate by
4 signing the tally sheets and by signing a separate statement under oath confirming
5 the results of the election in their polling place on election day.
- 6 (d) Election Clerks.
 - 7 (1) One Election Clerk shall be appointed by the Board of Elections for each polling
8 place no later than 30 days prior to all elections; provided, however, that two
9 Election Clerks shall be appointed by the Board for each of the Birdtown and
10 Wolfstown (not Big-Y) polling places due to the larger number of registered voters
11 in those townships.
 - 12 (2) The Election Clerk duties shall include: (a) assisting the Election Judges in
13 confirming the registration of individual voters; (b) assisting individual voters
14 who seek assistance in marking ballots; and (c) assisting Election Judges in
15 counting the votes after the polls are closed.
- 16 (e) Door Marshals.
 - 17 (1) One Door Marshal shall be appointed by the Board of Elections for each polling
18 place no later than 30 days prior to all elections.
 - 19 (2) The Door Marshal shall control the entrance of voters into the polling place to
20 ensure that there is an orderly flow of voters in and out of the polling place and
21 control the entrance of voters so that the election process shall not be
22 compromised.
 - 23 (3) The Door Marshal shall ensure that no candidate, their immediate family, or their
24 campaign workers are within 100 yards of the polling place except to cast their
25 own ballots.
 - 26 (4) The Door Marshal shall ensure that there is no loitering, electioneering,
27 intimidation of voters, or use of alcoholic beverages in and around the polling
28 place.
- 29 (f) Appointment of alternates to serve at polling place.
 - 30 (1) At least one alternate shall be appointed by the Board of Elections for each
31 polling place no later than 30 days prior to all elections, for each position for
32 which the Board of Elections believes an alternate is necessary or helpful.
 - 33 (2) If the primary appointee is unable to fill his or her duties, the alternate shall be
34 empowered to perform all the duties enumerated above applicable to the position
35 for which he or she is an alternate.
 - 36 (3) The Board of Elections shall provide training to appointed alternates
37 commensurate with the position in which the alternates are requested to serve.
- 38 (g) Certification.
 - 39 (1) All election officials shall be appointed and certified by the Board of Elections as
40 being eligible to serve in their respective capacities, prior to the election.
 - 41 (2) All election officials shall before entering on their duties of office take the
42 following oath before a member of the Board of Election: "I [name], having been
43 duly appointed to serve as [title] for the [community] Township in the [year] [type
44 of election] Election, do solemnly swear (or affirm) that I will faithfully perform
45 the duties of that office to the best of my abilities and that I shall serve in a fair
46 and impartial manner without fear or favor to anyone; that I shall comply with

1 Tribal law and shall not engage in or aid, abet or encourage anyone else to engage
2 in any fraud or deceit that would compromise the integrity of my position, the
3 election process or the accuracy of the election results. I make this oath under
4 penalty of perjury." All oaths shall be signed and dated by the respective election
5 officials; such signed oaths shall also include the printed names of the election
6 officials.

- 7 (3) In the event of a vacancy in any of the election official appointments prior to an
8 election, the Board of Elections shall have authority to appoint and certify a
9 replacement.

10 (h) Early voting.

- 11 (1) Early voting shall be conducted pursuant to Section 161-15.1.

- 12 (2) Early voting shall be conducted at locations to be determined by Board of
13 Elections.

- 14 (3) The Board of Elections shall choose election officials for early voting no later
15 than 30 days before the date set for early voting.

- 16 (4) Election officials for early voting shall be certified and trained before the date set
17 for voting.
18

19 **Sec. 161-14. Voting procedures.**

- 20 (a) When a Tribal member appears at the polling place to vote, the enrolled member shall
21 present an Election official with a Tribal, state, or federal government issued photo I.D. to
22 verify identification, an Election official shall then determine if the name appears on the
23 official list of registered voters furnished by the Board of Elections. If there is any
24 question regarding a voter's eligibility, the Chief Election Judge shall call the Board of
25 Elections to verify. If after confirmation with the Board of Elections, the voter is
26 determined not to be eligible or registered, he/she shall not be allowed to vote. If the
27 name appears on the official list of registered voters, the clerk shall then ensure that the
28 voter's name does not also appear on the list of early or absentee voters, and shall record
29 the voter's name in a record book maintained for the purpose of documenting such fact.
30 An election official shall then give the voter an unmarked ballot.
- 31 (b) The voter shall mark the ballot in a designated private area within the polling place. The
32 voter shall then place the marked ballot into the ballot box and leave the polling place.
- 33 (c) If a voter seeks assistance in marking the ballot, the Election Clerk or other election
34 official shall mark the ballot as requested by the voter, and shall have two election
35 officials witness the marking. An official affidavit of assistance form must be signed by
36 the voter prior to the Election Clerk or other election official marking the ballot and noted
37 on that form the signatures of all election staff who in the administration or witnessing of
38 the casting of the ballot. The two election officials shall witness the marking of the ballot
39 and then immediately deposit the ballot in the ballot box.
- 40 (d) The Board of Elections shall not provide early voting or absentee ballots for run-off or
41 special elections.
- 42 (e) If any person is unable or unwilling to enter the polling place, the person shall be
43 permitted to vote in a motorized vehicle at the polling place. Such voters shall be
44 permitted to vote by having two of the election officials personally deliver the ballot to
45 such a voter. An official affidavit of assistance form must be signed by the voter prior to
46 the voter marking the ballot, and be noted on that form the signatures of all election staff

1 who assisted in the administration or witnessing of the casting of the ballot. The two
2 election officials shall witness the marking of the ballot by the voter and then
3 immediately return the ballot to the polling place and deposit the ballot in the ballot box.

- 4 (f) After the polls are opened, under no circumstances shall a ballot box be opened until the
5 polls are closed. If manual ballots are used, key operated locks shall be installed on the
6 ballot boxes with the keys under the sole control of the Board of Elections. The keys shall
7 be delivered to the Chief Election Judge for the Board of Elections only at the closing of
8 the polls. If electronic tabulators are used, the Board of Elections shall use equivalent
9 procedures consistent with the technical requirements of the ballot tabulators to ensure
10 that no unauthorized ballots are inserted in the ballot box or counted in the election.
- 11 (g) Any voting irregularities observed by the Election Officials must be reported by the Chief
12 Election Judge to the Board of Elections when they occur, but no later than the time when
13 the ballot boxes are returned to the Board of Elections. The Chief Election Judge shall
14 immediately submit a report of the alleged irregularities in writing stating specifically and
15 in detail what the alleged irregularity is. Any alleged irregularities and the manner in
16 which they were handled shall be communicated to each candidate that submits a Protest
17 of Election Irregularity to the Board of Elections within the protest period.

18
19 **Sec. 161-15. Absentee voting.**

- 20 (a) The Board of Elections shall prepare and administer a separate ballot for absentee voting.
21 The absentee ballot shall be identical to the regular ballot except that it shall be printed on
22 paper of a different color.
- 23 (b) Only enrolled members who are registered to vote and meet one of the following
24 requirements may vote by mail or in person by absentee ballot:
- 25 (1) Tribal members serving on active military duty, including immediate family
26 members who reside in the household, who are unable to return to
27 Cherokee/polling place to cast their votes;
 - 28 (2) Tribal members who are unable to return to Cherokee/polling place to cast their
29 votes;
 - 30 (3) Tribal members enrolled in institutions of higher education and enrolled members
31 of their household that are unable to return to Cherokee/polling place to cast their
32 votes;
 - 33 (4) Tribal members who are employees of the Tribe and are required to be away from
34 Cherokee for training or for reasons required by their employment on the date of
35 election who are unable to return to Cherokee/polling place to cast their votes;
 - 36 (5) Tribal members who: because of illness are in a hospital, nursing home, or other
37 treatment facility, and/or, who because of their physical condition and course of
38 treatment are unable to go to the polling place to cast their votes; or
 - 39 (6) Tribal members who physically reside on Cherokee trust lands but who will be
40 absent from Cherokee on Election Day for business or personal reasons, and are
41 unable to return to Cherokee/polling place to cast their votes.
- 42 (c) Person desiring to vote by absentee ballot must apply for such a ballot within the
43 following time periods: Beginning on June 1 and ending on June 25 for the primary
44 election and beginning on August 1 and ending on August 25 for the general election, for
45 requests made by phone, electronic mail, or US mail. Requests may be made in person in
46 the Board of Elections Office by 4:00 p.m. the Friday before said election. A voter may

request both a primary election absentee ballot and a general election absentee ballot if the application for absentee ballot is submitted by June 25.

(d) Absentee ballots shall be given or mailed to the prospective voter by the Board of Elections within five business days of receiving the absentee ballot application together with instructions and an official self-addressed return envelope. Absentee ballots must be witnessed, returned to, and received by the Board of Elections on or before 4:00 p.m. on the day of the Primary Election, and on or before 4:00 p.m. on the day of the General Election. All absentee ballots shall be counted by the Board of Elections on Election Day.

(e) The Board of Elections shall prepare a list of all absentee ballots returned to the Board of Elections and shall make such a list available to the Chief Election Judge in each polling place on the day of election. Election officials shall not permit any person to cast a ballot whose name appears on the absentee voters list.

(f) Reserved.

(g) An application for absentee ballot shall be issued by mail, electronic mail, or in person to the voter. The application must be returned in paper form to the Board of Elections. The voter shall provide a copy of his/her enrollment card or a copy of his/her government issued photo ID card with the application for absentee ballot. The application shall require the voter to certify as follows:

"I, (Print Full Name), do certify, under penalty of perjury, that I am a voting member of the Eastern Band of Cherokee Indians, duly registered to vote in accordance with the Cherokee Code. I understand it is a violation of Tribal law to sign this certificate knowing that what I am certifying is not true.

Signature of Voter

Date: _____

Witness: _____

Address: _____

Witness: _____

Address: _____

(h) No later than June 15 for a primary election and August 1 for a general election, the Board of Elections shall print a sufficient number of envelopes in which persons casting absentee ballots may transmit their marked ballots to the Board of Elections. Each return envelope shall be printed in accordance with the following instructions:

(1) On one side shall be printed an identified number of the voter and the following statement which shall be certified by one member of the Board of Elections:
"Certification of Election Board Member: The undersigned Election Board _____ Member certifies that _____ is a registered and qualified voter of _____ Township and has made proper request to vote under the laws of the Eastern Band of Cherokee Indians.

Chairman/Member

Date: _____

(2) On the other side shall be printed the return address of the Board of Elections and the following certification:

"Certification of Absentee Voter: I, (Print Full Name), do certify, under penalty of perjury, that I am voting member of the Eastern Band of Cherokee Indians, duly registered to vote in

1 accordance with Tribal law. I further certify that I requested an absentee ballot and that I marked
2 the ballot enclosed herein, or that it was marked for me in my presence and according to my
3 instructions. I understand it is a violation of Tribal law to sign this certificate knowing that what I
4 am certifying is not true.

5 Signature of Voter: _____

6 Date: _____

7 Witness: _____

8 Address: _____

9 Witness: _____

10 Address: _____

11
12 (i) On or before June 15 for a primary election and August 1 for a general election, the
13 Board of Elections shall prepare and print a sufficient number of instruction sheets on
14 how voters are to prepare absentee ballots and return them to the Board of Elections. The
15 instruction sheet shall state the date on which ballots must be received by the Board of
16 Elections to be counted.

17 (j) The Board of Elections shall use the following procedures to maintain the Absentee Logs:

18 (1) Record the absentee applications and ballots issued.

19 a. Name of the voter requesting an absentee ballot.

20 b. Number assigned to voters ballot when issued.

21 c. The township in which applicant is registered.

22 d. Address to which the ballot is mailed.

23 e. The date the request for ballot was received.

24 (2) When the Board of Elections receives and approves an application for absentee ballots, it
25 shall promptly issue and transmit the ballot to the voter only, not to a relative, in
26 accordance with the following instructions:

27 a. On a detachable tab, the Board of Elections shall have printed the words
28 "Absentee Ballot No. _____" and insert in the blank space the number
29 assigned to the absentee voter. The Board shall not write, type, or print
30 any other matter upon the ballot.

31 b. The Board shall detach the numbered tab, fold and place the ballot in a
32 return envelope and write or type in the appropriate blanks thereon the
33 absentee voters name, his/her ballot number and the designation of the
34 township in which the voter is registered. The Board of Elections shall
35 leave the return envelope holding the ballots unsealed.

36 c. The Board of Elections shall then place the unsealed return envelope
37 holding the ballot, together with printed instructions for voting and
38 returning the ballot, in an envelope addressed to the voter at the address
39 stated in his/her request, seal the envelope, and mail it at the expense of
40 the Board of Elections. Alternatively, a voter may personally pick up the
41 ballot at the Board of Elections office.

42 (3) If the voter does not meet the criteria for absentee voting, the Board of Elections will
43 notify the voter in writing of the reason for denial. The decision of the Board of Elections
44 to deny an absentee ballot application shall be final.

45
46 **Sec. 161-15.1. Early voting.**

- 1 (a) Any registered voter may vote early under the provisions of this subsection.
- 2 (b) Early voting for the primary election shall be held for at least 12 calendar days, except
- 3 Sunday, beginning on the third Monday in June. Early voting for the general election
- 4 shall be held for at least 12 calendar days, except Sunday, beginning on the second
- 5 Monday in August. The location for early voting shall be determined by the Board of
- 6 Elections and shall be located on Tribal trust lands.
- 7 (c) All registered voters who desire to vote early shall follow the voting procedures set forth
- 8 in Section 161-14.
- 9 (1) The early voting ballots shall be marked and distinctly colored from the absentee
- 10 and regular voting ballots.
- 11 (2) After voting in a private area, the voter shall place the ballot in a locked ballot
- 12 box. The early voting ballot box shall not be opened and counted until election
- 13 day.
- 14 (d) The Board of Elections shall prepare a list of all early ballots cast and shall make such a
- 15 list available to the Chief Election Judge in each polling place on the day of the election.
- 16 Election Officials shall not permit any person to cast a ballot whose name appears on the
- 17 early voter's list.
- 18 (e) Election irregularities and protests shall be conducted in accordance with the procedures
- 19 as set forth in Section 161-16 of this chapter.
- 20

21 **Sec. 161-16. Election irregularities and protests.**

- 22 (a) All protests must be submitted to the Board of Elections in writing and on forms provided
- 23 by the Election Board or, if not on forms provided by Board, then in a typed or legible
- 24 writing. Each protest shall contain sufficient detail to give the Board adequate notice of
- 25 the alleged irregularity being protested. All protests shall, at a minimum, contain the
- 26 following information: (1) the name, mailing address, physical address, telephone
- 27 number and email address (if one is available) of the protester; (2) the dates and
- 28 approximate times of the act(s) being protested; (3) a description of the subject of the
- 29 protest; (4) the name, mailing address, telephone number and email address (if one is
- 30 available) of all witnesses known to the protester; and (5) copies of all supporting
- 31 records, photos and other documentary evidence in the possession or control of the
- 32 protester that the protester wants the Board to consider. All protests must include a sworn
- 33 statement signed by the protester, before a notary, that the allegations presented in the
- 34 protest are true or that the protester, upon information and belief, believes them to be
- 35 true. All hearings for election irregularities and protests shall be set according to this
- 36 Section.
- 37 (b) The person filing the protest shall pay the protest filing fee of \$100.00. The person filing
- 38 the protest must be an enrolled member of the Eastern Band of Cherokee Indians who is
- 39 registered to vote in Tribal elections.
- 40 (c) Except as otherwise provided in this section, a protest of irregularities in the conduct of
- 41 an election must be submitted to the Board of Elections no later than five business days
- 42 after the close of the polls. If the Board orders a hearing to hear the protest, then a hearing
- 43 date shall be set by the Board within two business days after the receipt of the written
- 44 protest.
- 45 (1) The Board has authority to not order a hearing if:

- a. The Board determines that it can render an informed decision based on the written protest and supporting materials provided by the parties, including information obtained by the Board through its own independent research and investigation, or
 - b. The Board determines that the written protest fails to meet the minimum requirements set forth in C.C. Section 161-16(a), or
 - c. The alleged irregularities complained of, even if taken as true in the light most favorable to the protestor, cannot be shown to have unfairly and improperly or illegally affected the actual outcome of the election and but for the alleged irregularities the winning candidate would not have prevailed at the polls.
- (2) If the Board orders a hearing on a protest of irregularities, the parties to the protest shall be allowed adequate time to prepare their case, not to exceed five business days. It is imperative to proceed in a timely manner, therefore the normal rules of civil procedure are not applicable. Parties may request that the Board issue subpoenas for persons or documents which the party expects to be relevant to the protest. In its discretion, the Board may issue subpoenas for documents or any witness it identifies as having information relevant to the issue or issues described in the protest. At a hearing before the Board, and subject to C.C. Section 161-32, the applicant shall have the right to present written evidence or oral testimony to address the alleged irregularities. The North Carolina Rules of Evidence may be used and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent people in the conduct of their affairs. They shall give effect to the rules of privilege recognized by law. They may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence.
- (3) All persons that the protest may directly affect shall be notified of the scheduled hearing by the Election Board. Notice shall be provided by any means authorized in C.C. Section 161-29 ("Service of Communications by the Board of Elections").
- (d) Any person filing a protest for election irregularities under this section must establish before the Board of Elections that the alleged irregularities unfairly and improperly or illegally affected the actual outcome of the election, and but for the irregularity, the winning candidate would not have prevailed at the polls.
- (e) All persons who are parties to an election protest shall have the right to have an attorney and/or lay advocate represent them before the Board of Elections. Any attorney who represents a person before the Board of Elections shall comply with Tribal law governing the practice of law in Cherokee.
- (f) If the Board orders a hearing, after all parties have had an opportunity to be heard and present evidence the Board of Elections shall issue a final written decision. The decision shall be issued within four business days after the conclusion of the hearing. If no hearing is ordered, the Board shall issue the final written decision no later than four business days after it determines it will not hold a hearing. The written decision shall be sent to all affected person(s) by means authorized in C.C. Section 161-29 ("Service of Communications by the Board of Elections").
- (g) The Board has the power to:
- (1) Find that the protest did not meet the requirements set forth in this Chapter and dismiss the protest; or

- 1 (2) Find that the protest did meet the requirements set forth in this Chapter and issue
2 the appropriate relief.
- 3 (3) If the Board of Elections finds that the protester has met the burden expressed in
4 subsection (d) of this section, then the Board of Elections is authorized to issue
5 relief in the form of ordering a new election or a run-off election between two or
6 more candidates affected by the election irregularity. If it is shown by the
7 evidence presented that a crime may have been committed during the course of
8 the election, the Board of Elections may present evidence to the Tribal
9 Prosecutor's Office for possible criminal charges.
- 10 (4) The Board of Elections shall use the same procedure set out in Section 161-7 of
11 this Chapter, if a new or run-off election is warranted.
- 12 (5) The powers given to the Board of Elections in this subsection are in addition to,
13 and are a supplement to, the powers given to the Board in C.C. Section 161-19.
- 14 (h) The Board of Elections shall issue a final, written decision. The decision is not required
15 to take any particular form or to formally express findings of facts and conclusions of law
16 as might be written in a court decision; provided, however, the final decision shall
17 contain sufficient information to enable the Cherokee Supreme Court on appeal, if an
18 appeal is filed, to make an informed judgment as to facts considered by the Board of
19 Elections in making its decision so that the Court can determine whether the Board
20 committed an error of law. Notice of appeal to the Cherokee Supreme Court must be
21 given no later than three business days after the final decision is served on the non-
22 prevailing party.
- 23 (i) No person shall be entitled to receive monetary damages or recover their legal or personal
24 expenses from the Board of Elections or the Tribe.

25
26 **Sec. 161-16.1. Certification of election results.**

- 27 (a) At the meeting of Tribal Council on the first Monday of October following a general
28 election, or after the first meeting of the Tribal Council following a special or primary
29 election, the Board of Elections shall certify the election to the Tribal Council.
- 30 (b) If a formal election protest is filed with and not yet resolved by the Board of Elections
31 pursuant to Section 161-16, the Board of Elections shall only certify the results of the
32 seats or offices not in dispute with the Council by Annual Council.

33
34 **ARTICLE III. BOARD OF ELECTIONS**

35
36 **Sec. 161-17. Board established.**

- 37 (a) The Board of Elections shall be composed of six members, one from each township. Each
38 member of the Board shall be appointed by the Tribal Council effective September 30 in
39 non-election years, with the term of each member to run for four years from that date.
40 The terms shall be staggered with one representative appointed from Painttown,
41 Wolfstown/Big Y, Snowbird/Cherokee County in 2012 and each four years thereafter; and
42 one representative appointed from Big Cove, Birdtown and Yellowhill in 2014 and each
43 four years thereafter.
- 44 (b) In order to serve as a member of the Board of Elections, a candidate must:
- 45 (1) Be an enrolled member of the Eastern Band of Cherokee Indians; and
- 46 (2) Be at least 18 years of age on the date of appointment; and

1 (3) Reside on Cherokee Trust Lands for a least one year prior to the date of
2 appointment and continue to reside on the Cherokee Trust Land for the duration
3 of their term; and

4 (4) Have received a high school diploma or equivalent prior to the date of
5 appointment.

6 (c) No Election Board member shall be a candidate for any Tribal office or actively support
7 any candidate for Tribal office during the term for which the member is appointed to the
8 Board. For purposes of this section, "actively support" means contributing money to,
9 campaigning for, or openly declaring support for any candidate.

10 (d) Every person who is a member of the Board of Elections shall take the same oath
11 required of election officials in C.C. Section 161-13.
12

13 **Sec. 161-18. Vacancies on election board.**

14 A vacancy on the Board shall be filled by appointment of a replacement by the Tribal Council at
15 the next regular Council session after the vacancy occurs. Such appointee shall serve the
16 remaining term of the Board member being replaced.
17

18 **Sec. 161-19. Powers and duties of the election board.**

19 (a) The Board shall have the power to do all things necessary and proper, consistent with this
20 Chapter, to effectuate the intent of this Chapter. Those powers include, but are not limited
21 to, the following: to make final decisions on candidate eligibility, proper voter and
22 candidate registrations and eligibility, absentee voter eligibility, and protest decisions; to
23 provide for the proper conduct of elections; to hire and/or contract with firms and
24 individuals to assist the Board in the conduct of its business; to resist, report and take
25 action against illegal or unethical conduct affecting Tribal elections; to set and impose
26 reasonable filing fees, protest fees and other fees; to provide for the imposition of civil
27 fines and other consequences for unlawful conduct; to make administrative rules pursuant
28 to Cherokee Code Chapter 150 (Administrative Procedure Act); and to develop rules,
29 policies, and procedures pursuant to Cherokee Code Section 117-35 (Authority to Make
30 Rules. Policies and Procedures). The Board, in carrying out its decision, shall have the
31 authority to subpoena documents and witnesses and shall have quasi-judicial powers to
32 make the final rulings on all election protests properly before it. If any person or entity
33 fails or refuses to obey a subpoena properly issued and served, the Board may apply to
34 the Cherokee Court for an order requiring compliance with the subpoena. The Cherokee
35 Court shall have jurisdiction to issue such order upon a showing by the Board that a
36 subpoena was properly issued and served, but was not complied with as the terms of the
37 subpoena required. Compliance with the court order may be enforced through the
38 contempt powers of the Court.

39 (b) The Board shall appoint all election officials necessary for the proper supervision of
40 Tribal elections as set forth in Article II of this Chapter.

41 (c) The Board shall provide to the election officials at each polling place a list of registered
42 voters for their respective polling place.

43 (d) The Board shall be responsible for the preparation of the official ballots to be used in
44 each of the polling places for all Tribal elections and shall furnish such ballots to the
45 elections officials in each polling place.

- 1 (e) The Board shall be responsible for certifying each applicant as eligible or ineligible,
2 notifying each applicant of its decision, and holding hearings as set forth in this Chapter.
3 The Board shall make public the names of the candidates certified as eligible on the
4 ballot for each Tribal office no later than May 31 of an election year for the primary
5 election and August 1 of an election year for the general election.
- 6 (f) The Board, together with the election officials for each polling place shall conduct all
7 ballot counts after the closing of the polls. The Board shall thereafter make public
8 unofficial reports of election returns. The Board shall certify elections as specified in
9 Section 161-16.1.
- 10 (g) The Board shall investigate irregularities and nonperformance of duty and violation of
11 Tribal election rules and regulations by election officials or other persons. The Board may
12 hold hearings in the course of such investigations in accordance with Section 161-16, but
13 is not required to hold a hearing on any particular matter if the Board determines that it
14 can render an informed decision based on the written protest and supporting materials
15 provided by the parties or the Board, including information obtained by the Board
16 through its own independent research and investigation.
- 17 (h) The Board shall have access to all ballot boxes and their contents, all voting machines
18 and their contents, all registration records, and all necessary enrollment records in the
19 Tribal Enrollment Office to carry out its duties under this Chapter. The Board of
20 Elections is authorized to utilize all resources available to properly document a voter's
21 residence for registration purposes.
- 22 (i) The Board shall conduct an instructional meeting for township officials at a location to be
23 determined by the Board[.] All election officials shall receive training and instruction in
24 the proper execution of their duties before the beginning of early voting, if possible. All
25 election officials shall receive a copy of a written training handbook detailing the election
26 day process.
- 27 (j) The Board shall keep a recording and written record of all Board meetings at which
28 evidence is received or a vote taken regarding a protest filed with the Board.
- 29 (k) The Board shall prepare and submit to the Tribal Council a budget request, which shall
30 include all anticipated Tribal election expenses for the coming fiscal year. The request
31 should include payment of all persons working with elections and all known registration
32 costs.
- 33 (l) The Board shall have the authority to fully implement and carry out all other duties set
34 forth in this Chapter.
- 35 (m) Whenever the Board of Elections votes on a matter, the decision receiving the majority of
36 votes shall prevail. If a vote taken on a matter results in a tie among the members of the
37 Board, the matter fails.
- 38 (n) The Board shall provide reasonable accommodations for individual with a disability
39 when exercising of their right to vote. Reasonable accommodations shall be given in all
40 processes required to exercise the right to vote, including, but not limited to, becoming a
41 registered voter, accessing public polling places, and engaging in early voting or
42 alternative voting.
- 43 (o) The Board shall have authority to conduct run-off elections, being a second election
44 conducted after a primary or general election usually involving a subset of the candidates
45 who participated the original election and is held for the following purposes:

- (1) To resolve a tie between candidates who received the same number of votes in the original election; or
- (2) To re-do the election in whole or in part because the Board of Elections has determined, upon its own independent research and investigation prompted by a properly filed protest, that irregularities in the conduct of the election affected the actual outcome of the election or rendered the results contrary to the Tribal Charter or this Chapter 161, or the Board of Elections has determined that the results are unreliable by clear and convincing evidence.

ARTICLE IV. GENERAL PROVISIONS

Sec. 161-20. Definitions.

The terms defined in this Section shall, for all purposes of this Chapter, have the meanings specified below:

Business day shall mean any day of the week in which Tribal offices are open for regular business in whole or in part. This does not include Saturday, Sunday, or any other Tribal or federal holiday or Tribal administrative leave day in which Tribal offices are closed for the whole day.

Calendar day shall mean any day of the week.

Candidate shall mean the person running for elective office. Candidate also includes any person or entity who files a ballot measure including, but not be limited to, initiative questions, referendum questions and amendments to the Tribal Charter and Governing Document or to the adopted constitution of the Tribe if a constitution is adopted.

Election Year shall mean October 1 through September 30 of the year of a regularly scheduled general election for Tribal Council or Principal Chief or Vice Chief are held.

Government Issued Identification (I.D.) shall mean a valid state issued driver's license, state issued photo I.D., military personnel I.D. card, a United States government issued passport, EBCI and EBCI entities' employee identification with photo, or EBCI Enrollment card with photo.

Immediately related to or immediate family shall mean a husband, wife, father, mother, brother, sister, daughter, son, aunt, uncle, grandfather, grandmother, niece, nephew, or grandchild.

Polling place shall mean the actual physical location where votes are cast during an elections. The Board of Elections shall authorize and designate one polling place in or adjacent to each voting township, except for the Wolfstown Township, which shall have two polling places — one for Wolfstown and one for Big-Y, and Snowbird/Cherokee County, which shall have one polling place for Snowbird and one for Cherokee County.

1 *Run-off election* shall mean a second election conducted after a primary or general election (1) to
2 resolve a tie between candidates who received the same number of votes in the original election;
3 or (2) to re-do the election in whole or in part for the reasons expressed in C.C. Section 161-19.

4
5 *Township* shall mean the six established communities on the Qualla Boundary recognized by the
6 Tribal Council and in the Charter and Governing Document as having Tribal Council
7 representatives: Big Cove (including Tow String), BirdTown (including 3200 Acre Tract),
8 PaintTown, YellowHill, WolfTown (including Big Y), and SnowBird and Cherokee County trust
9 lands, combined into one township.

10
11 *Tribe* is used inclusively and shall mean the government of the Eastern Band of Cherokee
12 Indians and all of its boards, commissions, entities, and enterprises.

13
14 *Trust land* shall mean land held in trust by the United States government for the benefit of the
15 Eastern Band of Cherokee Indians or its members.

16
17 *Vacancy* shall mean that an elected official has resigned or died, or has been impeached or
18 removed, or has been removed after having been found to be disabled to the extent that he or she
19 is unable to discharge the powers and duties of the office during his or her term of office.

20
21 **Sec. 161-21. Prosecution.**

22 Any violation of this Chapter that may constitute commission of crime shall be referred
23 by the Board of Elections to the Tribal prosecutor for review and potential prosecution in the
24 Cherokee Court or in federal court depending on the nature and extent of the crime.

25 Any person who, in any official proceeding of the Board of Elections or in any official
26 document submitted to the Board or submitted to another entity or person as required in this
27 Chapter, makes a false statement under oath or affirmation, or who swears or affirms the truth of
28 a statement previously made when the statement is material and the person believes the statement
29 not to be true, shall be subject to prosecution under applicable Tribal law.

30
31 **Sec. 161-22. Effective date; amendment; severability; weekends.**

32 (a) This Chapter and amendments to it shall be effective upon ratification by the Principal
33 Chief.

34 (b) The provisions of this Chapter that established election requirements or procedures shall
35 not be amended during an election year as defined in Section 161-20, except as provided
36 in Section 161-25.

37 (c) If any provisions of this Chapter are found to be invalid because it is inconsistent with
38 another law, then the inconsistent portion shall be reviewed and amended until all
39 conflicts are resolved. All other provisions of this Chapter shall remain in full force and
40 effect.

41 (d) If the deadline for any action required under this Chapter falls on a weekend or holiday,
42 then the deadline is extended until the next business day.

43
44 **Sec. 161-23. Appellate review.**

45 The standard of review for an appeal of a final decision by the Board of Elections shall be for
46 error of law.

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ARTICLE V. MISCELLANEOUS

Sec. 161-24. Unlawful campaign practices.

(a) In addition to other prohibitions in this Chapter, the following acts are unlawful:

- (1) Campaigning within 100 yards of a polling place. No person shall campaign, attempt to persuade voters, place campaign literature or signs, or otherwise attempt to influence the outcome of a Tribal election within 100 yards of a polling place. This restriction shall be applied in concert with the 100 yard restrictions provided in C.C. Section 161-12 and Section 161-13(d).
- (2) Buying or selling votes. No person, corporation, partnership, or any other legal entity shall attempt to influence a person or obtain his or her vote, or obtain his or her signature on a petition, by making a direct and specific offer to that individual, or to another person on behalf of that individual, of money, goods, or services. This subsection is not intended to limit the making of "campaign promises", i.e., generalized suggestions that people will benefit from policies associated with particular candidates or particular issues on the ballot.
- (3) Tampering with ballots. No person shall tamper with, alter, destroy, deface, or mutilate ballots that have been cast in an election, or perform any such acts in connection with an official record of ballots cast in an election, except as authorized by law.
- (4) Giving false information in registering or voting. No person shall knowingly or willfully give false information as to his name, address or period of residence in the township for the purpose of establishing his eligibility to register or to vote, or conspire with another individual for the purpose of encouraging his false registration to vote or illegal voting, or pay or offer to pay or accept payment for registering to vote or for voting.
- (5) Falsification or concealment of material facts. It shall be unlawful for any person to knowingly and willfully falsify or conceal a material fact, or make any false, fictitious, or fraudulent statement or representation, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry.
- (6) No intimidation. No person, organization, association, corporation, or other entity shall use or threaten to use physical force, job discrimination, employment reprisal, employment reward, or financial reprisal or financial reward, to solicit or accept money or any other thing of value for the purpose of influencing the result of an election or to assist a candidate or office holder.
- (7) Voting more than once in an election. No person shall vote more than once in an election, except as provided by law.
- (8) Marking the ballot of another person. No person shall mark the ballot of another voter without that voter's express approval. No person shall execute the signature of another voter on any document submitted to the Board of Elections without that voter's express approval.
- (9) Photographing voters prohibited. No person shall photograph, videotape, or otherwise record the image of any voter within the polling place. This subsection

1 does not apply to cameras used as a regular part of the security of the facility that
2 is a polling place.

3 (10) Photographing voted ballot prohibited. No person shall photograph,
4 videotape, or otherwise record the image of a voted official ballot for any purpose
5 not otherwise permitted under law.

6 (b) A willful violation of Cherokee Code Section 161-24(a) ("Unlawful campaign practices")
7 shall be a crime punishable by a fine not to exceed \$5,000.00, by imprisonment not to
8 exceed a term of one year, or both.

9
10 **Sec. 161-25. Amendment to this chapter.**

11 No provisions of this Chapter 161, otherwise known as the Election Ordinance, may be
12 amended from October 1 to September 30 of any Election year in which regularly scheduled
13 general elections for Tribal Council or Principal Chief or Vice Chief are held. This restriction
14 does not apply to amendments that are necessary to comply with decisions of the Cherokee
15 Tribal Court, or to amendments that are procedural or administrative that do not alter the
16 substantive requirements for the actions or persons expressed in this Chapter.

17
18 **Sec. 161-26. Board of elections office.**

19 (a) The Board of Elections shall have an office or offices that are secured so that access to
20 the offices is limited to authorized persons only.

21 (b) The Board of Elections offices shall have working security cameras that shall record all
22 persons coming and going from the offices, and to record the handling and securing of all
23 ballots, and to provide for the security of all ballots.

24 (c) Keys and codes to Board of Election offices shall only be provided to authorized
25 personnel. All access to Election Board offices shall be logged remotely, providing the
26 ability to review who has been in and out of the offices.

27
28 **Sec. 161-27. Securing and logging ballots.**

29 (a) All ballots shall be secured in a locked safe or cabinet with access limited to authorized
30 personnel only. The Board of Elections shall maintain a log indicating who accesses the
31 ballots and the day, date, and time (example: "Monday, 08/28/2017, 2:00 p.m.") access
32 was made.

33 (b) If bins or containers are used to store marked or unmarked ballots, the bins or containers
34 shall be sturdy enough to preclude reasonable attempts at unauthorized access and shall
35 have a secure locking system to safeguard sensitive data and to prevent tampering, theft,
36 or destruction of documents.

37 (c) If security seals are used to securely lock bins or containers, the security seals shall be
38 secured in a locked cabinet with limited access controlled by the Board of Elections. A
39 log shall be maintained to monitor who has accessed the security seals, as well as reason
40 access to the seals was necessary. The log shall contain day, date, and time entries. Two
41 signatures shall be noted on the log each time a bin or container is opened, with one
42 signature being that of a Board of Elections members.

43 (d) Security seals shall be uniform and pre-numbered sequentially.

44 (e) The Board of Elections shall log spoiled ballots.

45
46 **Sec. 161-28. Poll books.**

1 All poll books shall be reconciled and verified daily by two members of the Board of Elections.

2
3 **Sec. 161-29. Service of communications by the Board of Elections.**

4 Wherever in this Chapter the Board of Elections is required to serve an official notice or
5 decision on a person, the Board may serve the official communication in any of the ways
6 expressed in this section. Regardless of the manner of service, the Board shall keep records
7 establishing that the communication was made, including information about when the recipient
8 received the communication. The following methods of service are acceptable:

- 9 (a) By requiring the recipient to personally appear at the Board of Elections office to pick-up
10 and sign for the document; or
11 (b) By mailing the document to the recipient by United States Postal Service certified mail
12 with return receipt requested, or by delivery by FedEx or United Parcel Service; or
13 (c) By personal delivery by an officer of the Cherokee Indian Police Department with proof
14 or return of service to be provided by the officer to the Board. The Cherokee Indian
15 Police Department is hereby authorized and required, if requested by the Board, to
16 deliver such communications and provide proof or return of service to the Board; or
17 (d) By electronic means such as by email or text message to a mobile telephone number
18 maintained by the candidate; provided, however, that the Board shall preserve all such
19 emails or other electronic communications and shall keep records of all such
20 communications with sufficient detail so the Board can show when the communication
21 was made, who received it and when it was received.
22

23 **Sec. 161-30. Calculation of days.**

24 Unless a different meaning is clearly expressed, wherever in this Chapter a time period of
25 ten days or less is expressed for the performance of an act (such as for filing a required
26 document, scheduling a hearing or providing notice of an event), those days shall mean business
27 days; and any time period greater than ten days shall mean calendar days.
28

29 **Sec. 161-31. Legal representation at hearings.**

30 Parties to hearings before the Board of Elections shall have the right to have an attorney
31 and/or lay advocate represent them at the hearing. Any attorney who represents a person at a
32 hearing before the Board shall comply with Tribal law.
33

34 **Sec. 161-32. Control of hearings.**

35 The Board of Elections shall have authority to control the conduct of hearings before the
36 Board. The Board may impose reasonable restrictions on the presence of parties, witnesses and
37 other persons, the sequestration of the same, the presentation of evidence and the duration of
38 hearings. Such control shall be exercised to provide a safe and orderly hearing and to minimize
39 disruption and delay.
40
41
42

43 **BE IT FINALLY ORDAINED** that this ordinance shall become effective upon ratification by
44 the Principal Chief.
45

46 *Submitted by the Tribal Council.*