

TABLED

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

Date: OCT 16 2025

ORDINANCE NO. 17 (2025)

An ordinance to amend C.C. Sections 92-10 and 117-45.3 to allow program managers and directors who meet the definition of Tribal official to be TERO certified and to be able to contract with the Tribe to provide certain services directly benefiting Tribal members.

WHEREAS, Tribal law prohibits Tribal officials and certain employees from being TERO certified and from contracting with the Tribe; and

WHEREAS, the prohibition is in place to prevent conflicts of interest and sweetheart deals in the award, oversight, and payment of contracts; and

WHEREAS, the prohibition is incorporated in Section 2.19 of the Personnel Policy, which states that Tribal employees may hold outside jobs so long as the outside jobs do not interfere with their Tribal employment, the outside job does not bring discredit on the EBCI, and the outside job does not constitute a conflict of interest; and

WHEREAS, there is no dispute about the intent and efficacy of the prohibition when it is applied to elected officials and higher-level appointed officials; and

WHEREAS, the prohibition, however, can impose a hardship on other employees who have become Tribal employees after forming an outside business as a sole proprietor or a closely-held business that provided services to Tribal members and their families; and

WHEREAS, Tribal law should be amended to remove the prohibition for Tribal employees below the level of Division Secretary who may want to contract with the Tribe to provide desired services to Tribal families on the Qualla Boundary.

NOW THEREFORE BE IT ORDAINED by the Eastern Band of Cherokee Indians in Tribal Council assembled, at which a quorum is present, that amend Cherokee Code Sections 92-10 and 117-45.3 shall be amended to read as follows:

Sec. 92-10. Certification requirements.

(a) To be certified as an Indian owned economic entity entitled to a preference under this Chapter the following requirements shall be met.

(1) The economic entity shall be at least 51 percent unconditionally owned and controlled by a member of a federally recognized Indian tribe or a married couple in which one

1 spouse is a member of the Indian tribe and be able to provide documentary evidence of
2 that ownership.

3 (2) The economic entity shall maintain a valid, current Tribal business license.

4 (3) The economic entity or persons within the entity, whichever is appropriate, shall at all
5 relevant times maintain the professional licenses, registrations and certifications
6 required by applicable law.

7 (4) Reserved.

8 (5) The economic entity shall have a business plan that contains a formal statement of a set
9 of business goals. If all goals have not been met give the reasons why they are believed
10 attainable, and the plan for reaching those goals. The plan may contain goals that
11 follow the ideals set forth within this Chapter. It may also contain background
12 information about the organization or team attempting to reach those goals.

13 (6) The economic entity shall at all relevant times maintain adequate capital to sustain its
14 operations and carry out its business plan.

15 (7) The economic entity shall have a record of successful performance on contracts in the
16 trade for which it wants to be certified.

17 (8) The economic entity shall have at least three verifiable references from persons for
18 whom it has performed work in each trade in which it wants to be certified.

19 (9) The economic entity shall have, for each specific trade for which it wants to be
20 certified, the capacity to perform 50 percent of any job it is awarded with its own
21 personnel, equipment and facilities and the ability to timely obtain, as "timely" is
22 defined by the procuring entity, additional necessary personnel, equipment and
23 facilities to perform contracts if awarded certification.

24 (10) The economic entity and its principals shall submit to and pay for the following
25 background checks, which may be requested or performed by the Commission upon
26 submission of an application to the Commission or at any time after certification:

27 a. Licensing history.

28 b. Criminal history.

29 c. Debt and credit history.

30 d. Litigation involving the economic entity and/or principals as defendants.

31 Such background checks shall be completed by entities acceptable to TERO as set out
32 in its policies and procedures.

33 (11) An economic entity shall have been operational for at least one year in the trade in
34 which the economic entity wants to be certified. An economic entity shall also have
35 been operational for at least one year in any areas of trade they add later and shall
36 provide additional business plans for the additional areas they seek to be certified in
37 later.

38 (12) The economic entity shall have the following minimum insurance:

- 1 a. Workers compensation insurance as required by law in the State of North
2 Carolina;
- 3 b. General liability insurance sufficient to meet Tribal contracting requirements;
- 4 c. Vehicle insurance;
- 5 d. At the time of applying for certification, the economic entity shall show proof of
6 insurance coverage sufficient to meet Tribal contracting requirements; and
- 7 e. The Commission may require more or additional insurance including, but not
8 limited to, professional liability or malpractice insurance.
- 9 (13) The economic entity shall be inspected by an official of the TERO to ensure that the
10 economic entity possesses, has leased or has the ability to lease the material,
11 equipment, tools and/or personnel required to perform the economic entity's daily
12 business functions.
- 13 (14) The principals of the economic entity shall attend an annual TERO training session
14 hosted by TERO.
- 15 (b) If, at any time, an economic entity fails to meet the requirements imposed in this section the
16 Commission shall, after a hearing, suspend the economic entity's certification and give it an
17 opportunity to meet the requirements. Repeated failure to meet requirements will result in
18 termination of certification.
- 19 (c) Any elected officials, Executive Office staff, Program Directors Division Secretaries, and
20 currently seated members of other Boards and Commissions that receive monetary
21 compensation may not be TERO-certified.
- 22 **Sec. 117-45.3. Code of Ethics.**
- 23 (a) Tribal officials shall not take any official action or participate in the selection, award, or
24 administration of a contract or grant award, if a conflict of interest, real or apparent, shall be
25 involved.
- 26 (b) Tribal officials shall not directly or indirectly solicit, accept or provide gratuities, favors, or
27 anything of monetary value from contractors, potential contractors or subcontractors who
28 are contracting to perform services or sell goods or property to the Tribe or a Tribal
29 program.
- 30 (c) Tribal officials, directly or through a business entity in which the Tribal official has a
31 personal interest, shall not enter into any contract for services or goods with any Tribal
32 entity, enterprise, or program for the purpose of either receiving or providing services or
33 goods. This provision shall not apply to such persons Tribal officials qualifying for
34 programs available to all Tribal members. Further, this provision shall not apply to Tribal
35 officials who obtained their position by appointment and who are employed below the level
36 of Division Secretary, provided, however, that this exception applies only if the contracting
37 person and the Tribal Division and program in which they work do not have any approval or
38 oversight authority over the contract.
- 39 (d) Tribal officials shall treat service to the EBCI as a sacred public trust with fiduciary
40 responsibility, which requires upholding and acting in accordance with laws and engaging

1 in the proper governance of the EBCI in a manner, which is placed above personal and
2 private gain.

3 (e) Tribal officials shall protect and conserve Tribal resources and ensure the appropriate use of
4 Tribal resources falling under the scope of the office of the Tribal official.

5 (f) Tribal officials shall provide every enrolled member a time to be heard on a Tribal issue that
6 falls under the scope of the Tribal official's duties. This paragraph shall not supersede C.C.
7 Section 117-16.

8 (g) Tribal officials shall not use their authority, title, or influence to improperly advance
9 personal or financial interests.

10 (h) Tribal officials shall disclose instances when they believe there has been fraud, waste,
11 abuse, corruption, or violations of this chapter to the Office of Internal Audit and Ethics.

12 (i) Tribal officials shall respect and honor the customs and traditions of the EBCI.

13 (j) Tribal officials shall abide by the laws of any sovereign jurisdiction in which they are
14 present. Tribal officials shall disclose any misdemeanor or felony charges and/or
15 convictions that occur in any jurisdiction while in office to the Office of Internal Audit and
16 Ethics.

17 (k) Tribal officials shall report to the Office of Internal Audit and Ethics, in accordance with
18 that office's rules of procedure, any gift, donation, or contribution received or provided by
19 the Tribal official.

20 (l) Tribal officials shall not act individually, jointly, or through another, threaten, intimidate, or
21 discipline any person as reprisal for any legitimate action taken by the person.

22 (m) Tribal officials shall not offer, solicit or accept, directly or indirectly, anything of value if
23 the gift could reasonably be expected to influence the vote, official actions, or judgment of,
24 or for, the official or could reasonably be considered a reward for any official action or
25 inaction.

26 (n) Tribal officials shall not withhold materials or information from the public pertaining to
27 those items discussed in closed session unless such materials or information are deemed
28 exempt from disclosure in accordance with Chapter 132 of the Cherokee Code.

29 (o) Tribal officials shall not take any official action or participate in a decision with respect to a
30 matter if it will have a direct and predictable effect on the financial interest, personal
31 interest, or present a conflict of interest for the official or employee or his or her immediate
32 family member. Any official in such situation shall recuse himself or herself from
33 participating in a discussion and/or vote on the matter giving rise to such conflict.

34 (p) Tribal officials may participate in private, public, civic, and/or charitable activities provided
35 such activities do not compromise the integrity or reputation of the EBCI or interfere with
36 the performance of official duties.

37 (q) Tribal officials shall maintain or enhance the honesty and integrity of their respective
38 offices; and safeguard the reputation of the EBCI as a whole.

The first of these is the fact that the *Journal* is a very young publication, and it is not yet possible to say whether it will be a success or a failure. It is too early to judge of its value, but it is a very interesting and useful publication, and it is a very good thing that it has been started. It is a very good thing that it has been started, and it is a very good thing that it has been started.

1 (r) Tribal officials shall protect and enhance the environmental and cultural resources, whether
2 natural or man-made, of the EBCI to ensure the security and prosperity of future
3 generations.

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5 BE IT FINALLY ORDAINED that all ordinances that are inconsistent with this ordinance are
6 rescinded, and that this ordinance shall become effective when ratified by the
7 Principal Chief.
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10 *Submitted by Tyler Blankenship.*