

TABLED

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

Date: OCT 13 2025

ORDINANCE NO.: 12 (2025)

An ordinance to clarify lawful searches by Game Wardens.

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

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

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

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

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

NOW THEREFORE BE IT ORDAINED, by the Tribal Council of the Eastern Band of Cherokee Indians, in council assembled at which a quorum is present, that in order to clarify lawful searches by Game Wardens and to make other changes needed to update the Tribe's laws on natural resources, Cherokee Code Chapter 113 is hereby amended as follows:

Sec. 113-5. Prohibitions.

[No amendments to subsection (a) or (b).]

(c) *Infractions.*

[No amendments to (c)(1) to (c)(16).]

(17) It shall be unlawful to fail to produce a valid license and/or permit to any ~~Natural Resources Enforcement Officer~~ Game Warden when requested.

(18) It shall be unlawful to bribe, attempt to bribe, cajole or threaten a Game Warden ~~Natural Resource Enforcement Officer~~.

(19) It is unlawful to clean or dispose of fish or fish parts in a stream, river, pond, or other body of water. Fish and fish parts may only be disposed of in sealable bags or containers which are placed in trash cans or other proper receptacles.

[No amendments from C.C. 113-6 to 113-14.]

1
2 **Sec. 113-15. Enforcement.**

3 (a) Natural Resources Enforcement Officers ~~(also known and referred to as "Game Wardens")~~ are
4 granted the powers of law enforcement officers within the territorial jurisdiction of the Eastern Band
5 of Cherokee Indians, and beyond its boundaries to the extent provided by law, in enforcing all
6 matters within their respective subject-matter jurisdiction as set out in this Section.

7 (b) The jurisdiction of ~~Natural Resources Enforcement Officers~~ Game Wardens extends to all areas set
8 out in this Chapter 113 of the Cherokee Code, and to all other matters within the Cherokee Code
9 which it directs ~~Natural Resources Enforcement Officer~~ Game Wardens to enforce. The Natural
10 Resources Enforcement Officers are specifically granted jurisdiction over all aspects of:

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

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

18 (c) Natural Resources Enforcement Officers are additionally authorized to arrest without warrant under
19 the terms of Cherokee Rules of Criminal Procedure for felonies, for any violation of Chapter 14 or
20 20 of the Cherokee Code, breaches of the peace, for assaults upon them or in their presence, and for
21 other offenses evincing a flouting of their authority as enforcement officers or constituting a threat
22 to public peace and order which would tend to subvert the authority of the Tribe if ignored. ~~Natural~~
23 ~~Resource Enforcement Officers~~ Game Wardens shall be empowered to issue citations to any person
24 for violations of this Chapter. The issuance of a citation shall be sufficient to charge a defendant for
25 violation of criminal law or cite a defendant for commission of a civil infraction.

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

- 28 (1) When the ~~Natural Resources Enforcement Officer~~ Game Warden has probable cause to believe
29 that a person committed a criminal offense in his presence; or
30 (2) When the ~~Natural Resources Enforcement Officer~~ Game Warden is asked to provide temporary
31 assistance by the Chief of Police of the Cherokee Indian Police Department or his designee or
32 by the head or designee of the state or local law enforcement agency acting within the authority
33 granted by a mutual agreement authorized by Sec. 15-3 of the Cherokee Code and the request
34 is within the scope of the Agency's jurisdiction.

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

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

47 (f) ~~Natural Resources Enforcement Officers~~ Game Wardens are authorized to stop temporarily any
48 persons they reasonably believe to be engaging in activity regulated by the Fisheries and Wildlife
49 Management Program to determine whether such activity is being conducted within the
50 requirements of the law, including license requirements. If the person stopped is in a motor vehicle
51 being driven at the time and the ~~Natural Resources Enforcement Officer~~ Game Warden in question

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50 requirements of the law, including license requirements. If the person stopped is in a motor vehicle
51 being driven at the time and the ~~Natural Resources Enforcement Officer~~ Game Warden in question

1 is also in a motor vehicle, the ~~Natural Resources Enforcement Officer~~ Game Warden is required to
2 sound a siren or activate a special light, bell, horn, or exhaust whistle approved for law enforcement
3 vehicles under the provisions of N.C.G.S. 20-125(b) or 20-125(c), as adopted by the Tribe.

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

12 (h) Reserved.

13 (i) Reserved.

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

- 18 (k) It is unlawful to refuse to exhibit upon request by any ~~Natural Resources Enforcement Officer~~ Game
19 Warden or other law enforcement officer any license or other item required to be carried by any law
20 or rule as to which the ~~Natural Resources Enforcement Officers~~ Game Wardens have enforcement
21 jurisdiction. It is unlawful to refuse to allow ~~Natural Resources Enforcement Officers~~ Game
22 Wardens or other law enforcement officers to inspect weapons, equipment, fish, or wildlife that the
23 officer reasonably believes to be possessed incident to an activity regulated by any law or rule as to
24 which ~~Natural Resources Enforcement Officers~~ Game Wardens have enforcement jurisdiction.

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

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29 BE IT FINALLY ORDAINED, that all ordinances and resolutions inconsistent with this ordinance
30 are rescinded, and this ordinance shall become effective upon ratification by the
31 Principal Chief.

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