

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

Date: MAR 03 2016

ORDINANCE NO. 152 (2016)

WHEREAS, Ordinance 558 (2015) was submitted in the May 2015 session of council to create and adopt a Code of Ethics for all elected officials; and

WHEREAS, Resolution 613 (2015) was submitted in the June 2015 session of council to establish a committee to draft a Code of Ethics with all necessary amendments to the Cherokee Code included; and

WHEREAS, The Ethics Committee performed comprehensive studies and research resulting in amendments sections to Cherokee Code Chapter 117 which include a revised Code of Ethics; and

NOW THEREFORE BE IT ORDAINED by the Eastern Band of Cherokee Indians in Tribal Council assembled, at which a quorum is present that in order to meet the highest standards of ethical conduct for all tribal elected officials and to provide a means whereby members of the EBCI may hold such officials accountable for their actions while performing their duties and responsibilities, Chapters 117 of the Cherokee Code be amended to include necessary changes as determined by the Ethics Committee as follows:

ARTICLE IV. – MISCELLANEOUS STANDARDS OF ETHICAL CONDUCT

Sec. 117-45. – Code of conduct.

- (a) No elected official, program director or executive staff employee of the Eastern Band of Cherokee Indians shall participate in the selection or in the award or administration of a contract or grant award of funds from any government agency, if a conflict of interest, real or apparent, shall be involved.
- (b) A conflict of interest shall be deemed to arise for purposes of this section when the elected official, program director or executive staff employee or any member of their immediate family, or an organization or firm which employs such official, director, executive staff employee or family member has a financial or other interest in the firm or person selected for the contract or grant award.
- (c) No elected official, program director, executive staff employee or any member of their immediate family shall solicit or accept gratuities, favors or anything of monetary value from contractors, potential contractors or subcontractors who are contracting to perform services or sell goods or property to the Tribe or a Tribal program.
- (d) No elected official, program director or any member of their immediate family, shall enter into any contract for services or goods with any Tribal entity, enterprise or program for the purpose of either receiving or providing services or goods. This provision shall not apply to such persons qualifying for

housing benefits from the Qualla Housing Authority or for medical benefits from the Indian Health Service or other programs available to all Tribal members.

(e) For purposes of this section, "immediate family" shall be defined as spouse, parent, child or brother or sister.

(f) Any elected official, program director, executive staff employee or member of their immediate family who violate this section shall be guilty of a misdemeanor and may be punished by the Cherokee Court of Indian Offenses, or any successor court, by a fine of no more than \$5,000.00 or 12 months' confinement, or both.

(Ord. No. 507, 9-11-1995)

Sec. 117-45. – Definitions

(a) As used in this Article, unless the context clearly requires otherwise, the following words have the listed meanings:

- (1) **Conflict of Interest.** – Any situation involving a Tribal Official where, due to the existence of a personal interest, a specific matter could be reasonably construed to be in conflict with an obligation of the Tribal Official to act in the best interest of the Tribe.
- (2) **Immediate Family** – Immediate family relationships are those such as between wife/husband, parent/child, sibling, mother-in-law, father-in-law, brother-in-law, sister-in-law, grandparent/grandchild, step-parent/step-child/foster parent/foster child, and aunt/uncle/niece/nephew. The term shall also be understood to refer to a degree of closeness of relationship (e.g. live-in companion, cousins raised as siblings) between an individual and a Tribal Official.
- (3) **Personal Interest.** – Means any interest in which there exists a likelihood for direct or indirect gain of any kind, including, but not limited to, employment contracts, benefits, salaries, funding, or ownership or investment held by a Tribal Official, employee, or immediate family member of Tribal Officials.
- (4) **Tribal Officials.** – Any individual serving in an office of the tribal government, including but not limited to any person:
 - (A) Holding an elective office regularly filled pursuant to a vote by enrolled members;
 - (B) Serving as a member of an authority, board, committee, commission, team or other similar body appointed by Tribal Council or the Executive Office; or
 - (C) Appointed by Tribal Council or the Executive Office to carry out actions, provide advice, assistance, or counsel to the Tribal Council or the Executive Office.
- (5) **Tribal Resources.** – Refers to instruments belonging to, held by, or received by the EBCI utilized for the economic, social, and political development of the EBCI as a community; and the tribal offices and programs of the EBCI. Such instruments may include but are not limited to the following:

- (A) Land, Physical property, and services owned, provided, distributed administered or allocated by Tribal Officials that have been paid for, subsidized, or otherwise acquired by the offices and agencies of the EBCI;
- (B) Funds and other financial assets of the EBCI; and
- (C) Other tribal materials made available to Tribal Officials while acting in an official capacity, which includes documentation, communications, and other records made available to a Tribal Official.

Sec. 117-46. – Purpose and Applicability.

(a) The purpose of this Article is to establish the highest standards of ethical conduct for all Tribal Officials and to provide a mechanism whereby the Tribe may hold such officials accountable for their conduct in performing the duties and responsibilities of their tribal office.

(b) Unless specifically indicated otherwise, all provisions of this Article shall apply to the conduct of all Tribal Officials.

Sec. 117-47. - Code of Ethics.

(a) The following represents the very minimum standards of conduct on the part of Tribal Officials important to ensure ethical behavior and maintenance of public trust:

- (1) Tribal Officials of the EBCI shall treat service to the EBCI as a sacred public trust with fiduciary responsibility to the EBCI, which requires upholding and acting in accordance with the laws of the EBCI and engaging in the proper governance of the EBCI in a manner which is placed above personal and private gain.
- (2) Tribal Officials of the EBCI shall not allow financial interests to conflict with the conscientious performance of obligations inherent in fulfilling the duties and responsibilities associated with their respective offices.
- (3) Tribal Officials of the EBCI shall protect and conserve Tribal Resources and ensure the appropriate use of Tribal Resources falling under the scope of the office of the Tribal Official.
- (4) Tribal Officials of the EBCI shall provide every enrolled member a time to be heard in a formal setting on a tribal issue.
- (5) Tribal officials of the EBCI shall not use prestige of the office to advance private interests of others or themselves.
- (6) Tribal Officials of the EBCI shall disclose instances when they believe there has been fraud, waste, abuse, corruption, or violations of this Article to the appropriate authorities.
- (7) Tribal Officials of the EBCI shall respect and honor the customs and traditions of the EBCI.

- (8) Tribal Officials of the EBCI shall abide by the laws of any sovereign jurisdiction in which they are present.
- (9) Any gift, donation, or contribution received or provided by a Tribal Official, irrespective of value, must be reported by the official who received or provided the gift, donation, or contribution.
- (10) Tribal Officials of the EBCI shall not act individually, jointly or through another threaten, intimidate, or discipline any person as reprisal for any legitimate action taken by the person.
- (11) Tribal Officials of the EBCI shall not offer, solicit or accept, directly or indirectly, anything of value if the gift could reasonably be expected to influence the vote, official actions, or judgment of, or for, the official or could reasonably be considered a reward for any official action or inaction.
- (12) Tribal Officials of the EBCI shall not make public policy statements that could reasonably be understood to reflect the sentiments or intention of the EBCI as a whole without obtaining approval through appropriate procedures and mechanisms.
- (13) Tribal Officials of the EBCI shall not withhold materials or information from the public pertaining to those items discussed in closed session unless such materials or information disclosed in closed session are deemed private in accordance with Chapter 132 of the Cherokee Code.
- (14) No Tribal Official of the EBCI shall take any official action or participate in a decision with respect to a matter if it will have a direct and predictable effect on the financial interest, personal interest, or present a conflict of interest for the official or employee or his or her immediate family member. Any official in such situation shall recuse himself or herself from participating in a discussion and/or vote on the matter giving rise to such conflict.
- (15) Tribal Officials of the EBCI may participate in civic and charitable activities provided such activities do not detract from the dignity of the office or interfere with the performance of official duties.
- (16) Tribal Officials shall maintain or enhance the honesty and integrity of their respective offices; and safeguard the reputation of the EBCI as a whole.
- (17) Tribal Officials shall protect and enhance the environmental and cultural resources, whether natural or man-made, of the EBCI to ensure the security and prosperity of future generations.

Sec. 117-46 49. - Financial accountability.

Sec. 117-47 50. - Balanced budget act.

Secs. 117-49 51.—117-99. - Reserved.

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

Submitted by The Ethics Committee, established by Tribal Council