

TABLED

Cherokee Council House
Cherokee, Qualla Boundary (NC)

Date: JAN 07 2016

ORDINANCE NO. 81 (2009)

WHEREAS, the Eastern Band of Cherokee Indians is a sovereign entity with the authority and powers to establish and regulate standards for the safety and health of residents and visitors to the Qualla Boundary; and

WHEREAS, the Fire Prevention Code adopted for use on the Qualla Boundary by Cherokee Code Chapter 143-10 is obsolete and no longer kept up to date. In addition, the current code does not give the Cherokee Fire Department the authority necessary to enable them to enforce fire prevention standards; and

WHEREAS, it is imperative to implement the most up to date Fire Prevention standards on tribal trust land to provide for the health and safety of enrolled members, residents and visitors; and

WHEREAS, the Cherokee Fire Department recommends certain changes to the Cherokee Code to provide for the enforcement of fire prevention standards and to explicitly adopt the provisions of the Fire Prevention Code as adopted by the North Carolina Building Code Council as set out below.

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 the Cherokee Code Section 143-10 is amended to read as follows:

Sec. 143-10. - Fire prevention.

(a) ~~The Eastern Band of Cherokee Indians adopts the Standard Fire Prevention Code (and any amendments), as recommended for North Carolina by the Southern Building Code Congress International and the NFPA 101, Life Safety Code (and any amendments), as recommended by the National Fire Protection Association which shall apply to all commercial construction and commercial buildings on the Cherokee Indian Reservation.~~

~~The Cherokee Fire Department is authorized to inspect or to cause to be inspected as often as deemed necessary or appropriate all commercial buildings, structures, and premises within the jurisdiction of the Eastern Band of Cherokee Indians for the purposes of ascertaining and causing to be corrected any condition which may cause fire or explosion, endanger life from fire or explosion, or any violations of the provisions of this section.~~

(b) ~~The community services committee is empowered to consult with the fire marshals and/or fire chief to set a schedule of fines and other civil penalties for violation of the Fire Prevention Code. Such fines may be amended from time to time after further consultation with the fire marshals and/or fire chief. The Eastern Band of Cherokee Indians shall enforce fire prevention~~

through the Cherokee Code by adoption by reference of the code known as and entitled, the Fire Prevention Code as adopted by the North Carolina Building Code Council. Amendments to codes and standards adopted by reference herein which are adopted and published by the North Carolina Building Code Council shall be effective on the trust lands of the Eastern Band of Cherokee Indians at the time such amendments become a part of the North Carolina Fire Prevention Code. The provisions of the Fire Prevention Code shall apply to all commercial construction projects and commercial buildings on the Cherokee Indian Reservation.

- (c) The Cherokee Fire Department is authorized and empowered to adopt such policies, rules and regulations that may be necessary and desirable for the programs created and/or administered by the Division. Such rules and regulations shall be in effect in all tribal services areas and shall be in substantial compliance with C.C. 150. The fire chief shall be considered the local authority having jurisdiction wherever adopted fire and building codes reference this position.
- (d) The fire marshal and qualified employees of the Cherokee Fire Department shall be considered fire code officials and are authorized to enforce the provisions of the Fire Prevention Code and shall have the authority to render interpretations of this code.
- (e) The Tribal Business Committee shall be authorized to terminate a violator's traders permit or other business license based on failure or refusal to pay the assessed fine or civil penalty, after giving notice and an opportunity to be heard. Fire code officials shall conduct plan reviews for all new commercial construction projects on the Cherokee Indian Reservation and Tribal owned trust lands. The fire marshal will consult with the project manager and the building inspections department to ensure discrepancies identified during plans review are corrected prior to construction.
- (f) Fire code officials shall conduct inspections of new commercial facilities and perform acceptance testing of all fire protection systems. Fire code officials shall approve all fire protection features and systems prior to a certificate of compliance or a certificate of occupancy being issued by the building inspections department.
- (g) The fire code official is authorized to require and issue operational permits for all operations as described in Section 105 of the North Carolina Fire Prevention Code, including the following:
 - i. Amusement buildings
 - ii. Carnivals and fairs
 - iii. Explosives
 - iv. Fireworks Displays
 - v. Hot works operations
 - vi. Tents and temporary membrane structures exceeding 400 square feet
- (h) The fire marshal is authorized to establish an inspection schedule and ensure inspections are conducted for all commercial facilities and businesses operating on the Qualla Boundary and Tribal Trust Property.
- (i) Commercial property/business owners are expected to correct violations identified by the fire code official(s) within a timely manner as determined by the fire code official. Serious violations which fire code officials determine to be an immediate fire hazard or are immediately dangerous to life or health shall be corrected on the spot. If the hazard cannot be corrected on the spot, the fire code official has the authority to authorize disconnection of utility service to the building, structure, system or process to eliminate immediate hazard(s).
- (j) The fire marshal ~~have has~~ full authority to impose ~~fines and other civil penalties by issuing violation tickets in accordance with Tribal law and the schedule of fines then in force~~ a fine of

up to \$500.00 per violation. Payments of fines by person(s) or entity(ies) found to be in violation shall be made to the Tribal finance office.

(e)(k) The office of attorney general shall be authorized to collect any fines or civil penalties remaining unpaid after 60-days' notice by civil action in the Cherokee court.

(e)(l) The Tribal Business Committee shall be authorized to deny, suspend or terminate a violator's traders permit or other business license based on failure or refusal to pay the assessed fire or civil penalty, after giving notice and an opportunity to be heard.

(m) The decision of the Business Committee may be appealed to the Cherokee Tribal Court; provided, however, that the Court's review shall be limited to whether the decision of the Business Committee was an abuse of discretion.

BE IT FURTHER ORDAINED that this amendment shall be effective upon ratification by the Principal Chief, and all prior ordinances and resolutions that are inconsistent with this ordinance are rescinded.

Submitted by the Cherokee Fire Department.