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Cherokee Council House
Cherokee North Carolina

Date: ~~FEB 03 2022~~
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Ordinance No.: 144 (2022)

An ordinance to amend C.C. § 96-11 to give the Chief of Police greater authority to address personnel matters in the Cherokee Indian Police Department and amending C.C. § 15-4 to put the Cherokee Marshals and Community Supervision Service under the Chief of Police.

WHEREAS, the Cherokee Indian Police Department (CIPD) is tasked with keeping the public's safety through the enforcement of criminal laws on the Qualla Boundary; and

WHEREAS, to effectively administer a police organization and maintain safety in the community a strict chain of command must be followed so that appropriate and responsive policing is carried out by dedicated, well trained personnel; and

WHEREAS, C.C. § 96-11 makes CIPD officers, like most other Tribal employees, subject to Sec. 9.00 of the EBCI Personnel Policy. Section 9.00 sets out the substantive and procedural requirements for corrective actions for employee misconduct and appeals; and

WHEREAS, the process in Sec. 9.00 of the Personnel Policy imposes too many barriers, takes too long and reduces the ability of the Chief of Police to require adherence to the strict chain of command police organizations need to be effective; and

WHEREAS, C.C. § 96-11 should be amended to remove barriers to quick and effective action by the Chief of Police so that he or she has the tools necessary to create and maintain a police department that is unified and focused on serving public safety; and

WHEREAS, C.C. § 15-4 should be amended to place the Cherokee Marshals and Community Supervision Service, which is tasked with providing security at the Tony Lossiah Justice Center and running the probation office, under the authority of the Chief of Police.

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 C.C. § 96-11 and C.C. § 15-4 are amended to read as follows

Sec. 96-11. - Stability and protection of employees.

(a) All changes to the personnel policy must be reviewed by the Attorney General's Office and Director of Human Resources.

45 (b) All employees of the tribal government, and specifically excluding political appointees
46 as defined in C.C. Section 96-4 above, shall be protected by the corrective action or
47 disciplinary procedures set out in the Tribe's personnel policy and procedures manual
48 and may not be terminated, transferred or demoted when a new administration takes
49 office except in as provided for in the policies and procedures.
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51 (c) Notwithstanding any provision in this chapter, there shall be an exemption to the
52 Tribe's personnel policy where it concerns corrective actions for sworn officers and
53 detention officers working within the Cherokee Indian Police Department's law
54 enforcement and detention programs. Any sworn officer or detention officer working
55 for a law enforcement agency answering to the Chief of Police serves at the pleasure of
56 the Chief of Police and any corrective action or disciplinary procedures, up to and
57 including termination, shall be at the sole discretion of the Chief of Police. Nothing in
58 this subsection excludes such officers from the protections afforded by the other
59 sections of this Chapter 96.
60

61 (d) The exemption expressed in subsection (c) of this section shall expire on September 30,
62 2023 unless extended by Tribal Council by amendment to this section.

63 **Sec. 15-4. Cherokee Marshals and Community Supervision Service.**

64 (a) A ~~Department~~ program of the ~~Cherokee Court~~ Cherokee Indian Police Department
65 to be known as the Cherokee Marshal and Community Supervision Service is hereby
66 authorized and established. The Cherokee Marshal and Community Supervision
67 Service shall be under the control and direction of the ~~Cherokee Chief Justice~~ Chief
68 of the Cherokee Indian Police Department and shall be led by the person holding the
69 position of Marshal and Chief Probation Officer.

70 (b) The Cherokee Marshal and Community Supervision Service shall be recognized as a
71 stand-alone law enforcement ~~agency~~ program capable of maintaining records and
72 qualifications required to be a law enforcement agency in North Carolina and shall
73 have the same arrest powers and jurisdictional authority as the Cherokee Indian
74 Police Department. (See N.C. Gen. Stat. §1E-12.)

75 (c) The Cherokee Marshal and Community Supervision Service shall be responsible for
76 the security of all Cherokee Court personnel and Court facilities located within the
77 Tony Lossiah Justice Center or any building or facility used for court purposes. This
78 includes serving as bailiffs for the Court with the authority to ensure order and
79 deportment during any proceeding, including full powers of arrest and service of
80 process.

81 (d) The Cherokee Marshal and Community Supervision Service shall be responsible for
82 monitoring all persons the Cherokee Court places on pretrial supervision or
83 supervised probation following conviction. Employees of such Service shall
84 supervise and maintain records for all persons who are under pretrial release
85 conditions that include a supervision component, or are convicted in the Cherokee

86 Court and are sentenced to supervised probation or to community service work as a
87 part of their criminal judgment. Such employees shall also prepare and file any
88 supervision violation petitions, and shall testify in court as to any alleged violation of
89 supervision.

90 (e) The Marshal and Chief Probation Officer shall provide a quarterly report to the
91 Chief of the Cherokee Indian Police Department, Tribal Prosecutor's office and to
92 the Chief Judge of the Cherokee Court regarding persons under supervision which
93 shall detail compliance with supervision and community service activity.

94 (f) Persons under the supervision of the Cherokee Marshal and Community Supervision
95 Service and assigned to community service work shall labor for the benefit of the
96 Tribe by completing tasks which may include, but are not limited to: cleaning Tribal
97 vehicles; cleaning and maintaining the grounds and parking lot of the Cherokee
98 Detention Center; cleaning and maintaining the Cherokee Hospital grounds and
99 parking lot; cleaning and maintaining the Cherokee Civic Center grounds and
100 parking lot; collecting litter and maintaining the roadsides of all vehicular ways
101 contained within the exterior perimeter of the Qualla Boundary; cutting and
102 delivering wood to the elderly and infirm persons residing on the Boundary; and
103 paying the costs of community service in the sum of \$200.00.

104 (g) The Cherokee Marshal and Community Supervision Service shall be responsible for
105 establishing and maintaining an Electronic Home Confinement (EHC) program.
106 This shall include setting up, monitoring, and supervising those individuals whose
107 pretrial release conditions or criminal sentence as ordered by the Cherokee Court
108 includes an EHC component. Upon a supervisee's noncompliance with the EHC
109 program, the Marshal and Chief Probation Officer or his/her designee shall prepare
110 and file a written violation petition setting forth the alleged reasons the supervisee
111 should be removed from the EHC program and placed into the custody of the
112 Cherokee Detention Center.

113 **BE IT FINALLY ORDAINED**, that all resolutions and ordinances inconsistent with this
114 ordinance are rescinded, and this ordinance shall become effective upon ratification by the
115 Principal Chief.

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118 *Submitted by: Joshua Taylor, Chief of Police, Cherokee Indian Police Department*