

TABLED

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

Date: MAR 07 2024

ORDINANCE NO.: 125 (2024)

*An ordinance amending C.C. Sec. 117-46 and C.C. Sec. 117-47
to require Tribal entities to provide financial reports and budget information
to the Tribe on a regular schedule.*

WHEREAS, Cherokee Code (C.C.) Sec. 117-46 promotes financial accountability by imposing requirements for the adoption of budgets and annual financial audits of the Tribe and its entities; and

WHEREAS, C.C. Sec. 117-47 is the “Balanced Budget Act” and restricts the Tribe to adopting a Tribal government budget in which expenditures for the fiscal year in question do not exceed the projected revenues for that fiscal year; and

WHEREAS, certain entities of the Tribe are required to submit audited financial information to the Tribe because they are component units of the Tribe, but there is not a uniform financial reporting requirement by which the Tribe can expect to regularly receive financial data to help the Tribe measure the financial performance of its entities; and

WHEREAS, C.C. Sec. 117-46 and C.C. Sec. 117-47 should be amended to require entities to report certain financial information to the Tribe monthly and quarterly, and to require the submission of annual budget information.

NOW, THEREFORE, BE IT ORDAINED the Eastern Band of Cherokee Indians Tribal Council, in Council assembled, at which a quorum is present, that C.C. Sec. 11746 and C.C. Sec. 117-47 shall be amended to read as follows:

Sec. 117-46. Financial accountability.

(a) *Budget Adoption.* The Principal Chief shall not present and Tribal Council shall not approve or adopt an Annual Budget in excess of projected income.

(b) *Budget Management.* Subsequent to the approval of Annual Budgets by the Tribal Council, no funds may be expended for any line item in excess of the budgeted amounts. The Tribal Council shall have authority to reallocate appropriations within the overall budget and the sole authority to amend the overall budget.

(c) *Expenditures in Excess of Budget Prohibited.*

- 1 (1) Inadvertent expenditures in excess of a budgeted amount shall be reimbursed by the
2 authorizing official unless the Tribal Council approves the expenditure and amends
3 the appropriate line item.
- 4 (2) Intentional or flagrant expenditures in excess of a budgeted amount shall constitute
5 a criminal offense by the authorizing official against the Tribe. Punishment for
6 violation of this paragraph (2) shall be a fine of not more or less than \$1,000.00,
7 imprisonment for up to 30 days and reimbursement to the Tribal Finance Office.

8 (d) *Annual Audit Required.* The Treasury Division Office of Budget and Finance shall be
9 required to identify an independent external audit firm to perform an annual audit of the
10 primary government that complies with the Single Audit Act of 1984, subsequent
11 amendments, circulars and Government Auditing Standards. For purposes of Section 117-
12 46, Tribal Entities shall be defined as Cherokee Boys Club Inc., Cherokee Indian Hospital
13 Authority, Kituwah LLC, Kituwah Global Government Group LLC, Sequoyah National
14 Golf Club LLC, Tribal, Alcoholic Beverage Control Commission, Museum of the Cherokee
15 Indian, Vocational Opportunities of Cherokee Inc., Tribal Casino Gaming Enterprise,
16 Cherokee Tribal Gaming Commission, EBCI Holdings LLC, Qualla Enterprises LLC, and
17 any other entities determined by the Treasury Division Office of Budget and Finance.
18 Effective September 30, 2023, Cherokee Indian Hospital Authority and the Cherokee Boys
19 Club's annual certified audits shall be conducted by the Tribe's audit firm. All other Tribal
20 Entities shall identify an independent external auditor and submit the auditor's contact
21 information to the Treasury Division Office of Budget and Finance no later than January
22 3rd of each year. All Tribal Entities shall produce an annual audit of its financial statements
23 with an unmodified or unqualified auditor opinion no later than May 15th of each year and
24 submit final audit documents to the Treasury Division Office of Budget and Finance for
25 inclusion in the Tribe's audited financial statements. Tribal Entities who fail to submit their
26 auditor's contact information by January 3rd of each year or who fail to submit an annual
27 audit of its financial statements with an unmodified or unqualified auditor opinion by May
28 15th of each year shall not be eligible to receive funding from the Tribe until the
29 requirements are met or until the Tribal Entity enters into a good faith agreement that the
30 Treasury Division Office of Budget and Finance signs off on. Final audit reports shall be
31 presented to the Principal Chief, Vice Chief, and Tribal Council upon completion.

32 (d) Regular financial reporting by entities. In addition to the audit requirements described in
33 subsection (c) of this section, Tribal entities as defined in subsection (c) shall provide to the
34 Tribe's Office of Budget and Finance monthly and/or quarterly financial reports in the form
35 required by that office. Unless otherwise required by the Office of Budget and Finance,
36 profit-focused entities shall provide monthly and quarterly reports and service-focused
37 entities shall provide quarterly reports. The Office of Budget and Finance shall develop and
38 make available to the entities the forms to use for such reporting, which shall be made
39 available in electronic form to speed transmission and review, and available on paper if the
40 latter is requested by an entity.

41 **Sec. 117-47. Balanced budget act.**

42 (a) *Balanced budget required.* The Executive Committee shall propose, and the Tribal Council
43 shall pass, only a balanced budget.

- 1 (b) *Definition.* "Balanced budget" means a budget in which expenditures for the fiscal year in
2 question do not exceed the projected revenues for that fiscal year.
- 3 (c) *Budgets based on need.* Tribal division program, commission and enterprise budgets shall
4 be based on justified need. Increases and decreases in the budgets shall be tailored to the
5 needs of individual divisions and programs, commission and enterprise. Across-the-board
6 increases are prohibited. Increases shall not exceed five percent of the total General Fund
7 gaming appropriations for the current fiscal year.
- 8 (d) *Secretary or chairman quarterly reports.* The secretary or chairmen of each tribal division,
9 commission and enterprise shall provide to the Principal Chief and Tribal Council, orally
10 and in writing, a quarterly report consisting of a budget-to-actual summary of revenues and
11 expenses within their division, commission and enterprise. The quarters shall be: first
12 quarter October to December, second quarter January to March, third quarter April to June,
13 and fourth quarter July to September. The secretary or chairman shall submit their quarterly
14 report on or before the first Friday following the close of the quarter. The end of the fiscal
15 year close out report shall be on or before October 31. The secretary or chairman shall
16 submit a written end of the fiscal year report to Tribal Council on or before the first Friday
17 in November. The Tribal Council shall meet and review the end of the fiscal year report on
18 or about the second Wednesday in November.
- 19 (e) *Amendments.* An annual budget approved by Tribal Council shall not be amended if the
20 amendment will cause the Tribe to exceed the projected revenues of the current fiscal year.
21 This restriction does not apply in cases of emergency caused by natural disasters.
- 22 (f) *Grants.* When possible, grants shall be written to include administrative costs. If the grant
23 does not allow for inclusion of administrative costs, the program manager or other
24 representative shall explain in detail why the grant cannot be written to include
25 administrative costs. If a grant presents recurring costs to the Tribe, the Tribal Council shall
26 carefully scrutinize the grant requirements, the projected recurring costs, the need for the
27 grant money, and other relevant details to determine whether participating in the grant is
28 fiscally responsible. The request to Tribal Council to approve a grant shall be made in the
29 form of a resolution which shall be reviewed by the Grants Administration program and the
30 Budget and Finance Division before being presented to the Budget Committee. The Deputy
31 Officer of each division shall inform Tribal Council of the impending expiration or sunset
32 of each grant within their division at least six months before the expiration or sunset of
33 each grant.
- 34 (g) *Annual budget and report.* As provided in section 21 of the Tribal Charter, the Executive
35 Committee shall present to Tribal Council a proposed budget. Additionally, the Principal
36 Chief shall present an oral summary of the proposal to the members of the Tribe and
37 Council in a televised Council session within 30 days after submitting the proposed budget
38 to Council. The proposed budget shall be in the form of a detailed outline of the
39 administration's policy and funding priorities, as well as a presentation of the Tribe's
40 economic outlook for the coming fiscal year. The proposed budget shall estimate spending,

1 revenue and borrowing levels, with input from Tribal divisions, programs, commission and
2 enterprise with funding broken down by budget and/or function categories.

3 (h) *Quarterly reports.* Each quarter, the Principal Chief shall provide a written and oral
4 financial report to Tribal Council describing the Tribe's current financial condition.

5 (i) *Strategic plans.* The Executive Committee shall develop one-year strategic plan and a five-
6 year strategic plan and shall submit the plans to Tribal Council for review and approval.
7 Strategic plans shall be submitted to Tribal Council on or before April 15 of each year, and
8 shall be revised regularly to reflect changing circumstances. A strategic plan shall not be
9 effective to guide the Tribe until it is passed by Tribal Council and ratified by the Principal
10 Chief. Strategic plans shall address the long-term financial and operational parameters of
11 the Tribe, and shall be written according to an analytical process developed by the
12 Executive Committee. Strategic plans shall include divisional and cross-divisional
13 assessments of needs and services provided by the executive branch of Tribal government.

14 (j) *Endowment and investment funds.* The Principal Chief shall prepare and submit an annual
15 budget for the first and second Endowment and Investment Funds created in section 16C-
16 10 to the Tribal Council at the same time he or she submits the Tribe's annual operating
17 budget. The Endowment and Investment Funds budget shall include any matching
18 provisions for tribal enterprises and other detail costs that can be reasonably projected. The
19 Endowment and Investment Funds budget shall not include recurring operating costs of
20 Tribal divisions and programs, which shall be taken from the General Fund.

21 (k) *Borrowing permitted.* Nothing in this section shall be construed to prevent the Tribe from
22 borrowing money for any appropriate purpose approved by Tribal Council, provided that
23 the Tribe has sufficient projected receipts to repay the debt within a reasonable time.

24 (l) *Budgets from entities.* Entities that are required to provide audit information under C.C.
25 *Sec. 117-46(d) are also required to present budget information to the Tribe as may be*
26 *required by the Office of Budget and Finance.*

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

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32 *Submitted by the Brandi Claxton, Finance Director; and Michael McConnell, Attorney General.*
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