

TABLED

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

Date: APR 05 2018

ORDINANCE NO: 174 (2018)

WHEREAS, Cherokee Code Chapter 117, Article IV was amended in order to meet the highest standards of ethical conduct for all tribal 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; and

WHEREAS, the Office of Internal Audit and Ethics and the Audit and Ethics Committee was given the authority and responsibility for the enforcement and compliance of the adopted Code of Ethics; and

WHEREAS, the Audit and Ethics Committee has proposed changes to Chapter 117, Article IV to allow for more effective enforcement and compliance of the Code of Ethics.

NOW THEREFORE BE IT ORDAINED by the Tribal Council of the Eastern Band of Cherokee Indians assembled, at which a quorum is present, that Cherokee Code Chapter 117, Article IV is amended to read as follows:

Sec. 117-45.1. Definitions.

(a) For purposes of this section, the following terms have the meanings defined below:

- (1) *Tribal officials*. Any individual serving in or running for an office of the Tribal government, including but not limited to any person:
 - a. Holding or running for an elective office, ~~winning an election with a majority vote by enrolled members;~~
 - b. Serving as a member of an authority, board, committee, or 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 guidance, or assistance to the Tribal Council or the Executive Office.
 - d. Except that Tribal Officials shall not include Tribal Court officials provided that the Tribal Court adopts a Code of Ethics approved by the Office of Internal Audit and Ethics.
- (2) *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.
- (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) *Conflict of interest.* A conflict of interest shall be deemed to arise when the elected or appointed official, or executive staff employee or any member of their immediate family, or an organization or firm which employs such official, executive staff employee or family member has a financial or other interest in the firm or person selected for the contract or grant award.
- (5) *Immediate family* shall be defined as spouse, parent, child or brother or sister.
- (6) *EBCI* refers to the Eastern Band of Cherokee Indians and Tribe.

Sec. 117-45.2. Purpose and applicability.

- (a) It is the policy of the Eastern Band of Cherokee Indians that high moral and ethical standards among the elected officials, appointed officials, and executive staff employees are necessary in order to eliminate conflicts of interest in Tribal offices, improve standards of Tribal service, preserve the sacred public trust, and promote and strengthen the faith and confidence of the members of the EBCI in their government. This Code of Ethics is 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.

Sec. 117-45.3. Code of Ethics.

- (a) No Tribal official 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) No Tribal official 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. This provision shall not prohibit ordinary gifts between family members, provided they are in accordance with the rules established by the Office of Internal Audit and Ethics.
- (c) No Tribal official shall enter into any contract for providing services or goods with to 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 does not prevent a Tribal official from receiving from a Tribal entity, enterprise, or program services or goods on the same terms offered to allany Tribal members.
- (d) 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 personal 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 Chapter to the Office of Internal Audit and Ethics in accordance with policies and procedures approved by the Audit and Ethics Committee.
- (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. Tribal officials of the EBCI shall disclose any charges and/or convictions that occur in any jurisdiction while in office to the Office of Internal Audit and Ethics in accordance with policies and procedures approved by the Audit and Ethics Committee.
- (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 to the Office of Internal Audit and Ethics in accordance with policies and procedures approved by the Audit and Ethics Committee.
- (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 private, public, civic, and/or 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.
- (e) Failure to meet the minimum requirements described in this Section may constitute a violation of this Code of Ethics as determined by the Office of Internal Audit and Ethics as outlined below, until such time as the Office of Government Ethics is established in accordance with policies and procedures approved by the Audit and Ethics Committee.
- (f) Any violation of this Article will be considered a misdemeanor by the Cherokee Court, or any successor court.
- (g) Any Tribal official who violates Cherokee Code, Chapter 117, Article IV, Section 117-45, Standards of Ethical Conduct, shall be guilty of a misdemeanor and may be punished by the Cherokee Court or any successor court, by a fine of no more than \$5,000.00 or 12 months' confinement, or both.

117-45.4. Attestation and Disclosure

(a) Tribal officials shall file an Attestation and Disclosure Statement with the Office of Internal Audit and Ethics as follows:

(1) Upon election or appointment and no later than October 1 of every year thereafter.

(2) If currently not holding an elected office or an appointment, upon being certified as an eligible candidate by the Board of Elections but no later than April 15 of the election year.

(b) The Attestation and Disclosure Statement shall be on a form prescribed by the Office of Internal Audit and Ethics and shall include the following:

(1) Attestation statement that the Tribal official received, read, understands and will abide by the Code of Ethics.

(2) A list of the Tribal official's immediate family as defined in this Article.

(3) A list of businesses or entities in which the Tribal official or immediate family has a personal interest.

(c) Any Tribal official who fails to file a complete Attestation and Disclosure Statement by the due date as required by this Article shall be subject to a fine of two hundred and fifty dollars (\$250) to be imposed by the Audit and Ethics Committee.

BE IT FINALLY 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 Office of Internal Audit and Ethics