

TABLED

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

Date: JAN 10 2019

ORDINANCE NO. 450 (2019)

WHEREAS, the Tribe has created numerous boards, committees, and commissions in the Cherokee Code, but has not consistently expressed the authority of those bodies to promulgate administrative rules; and

WHEREAS, Tribal members and Tribal government have traditionally and consistently stated that Tribal boards, committees, and commissions have inherent, if not express, authority to promulgate rules for how boards, committees, and commissions will carry out tribal laws; and

WHEREAS, the rulemaking process improves government transparency and fairness to the public; and

WHEREAS, the Cherokee Code should be amended to clearly express that Tribal boards, committees, and commissions have authority to promulgate rules.

NOW THEREFORE BE IT ORDAINED by the Eastern Band of Cherokee Indians in Tribal Council assembled, at which a quorum is present, that Cherokee Code § 117-35 shall be amended to read as follows:

Sec. 117-35. - ~~Reserved for future use~~ Authority to make rules, policies and procedures.

The boards, committees, and commissions expressly established in the Cherokee Code or in the Charter and Governing Document shall be administrative bodies as defined in Cherokee Code § 150-2 of the Administrative Procedure Act ("APA"), unless expressly exempted in that definition, and shall have authority to make administrative rules as provided in the APA, and shall have the authority to write and adopt policies and procedures necessary or helpful for performing the duties given to the respective board, committee, or commission.

BE IT FINALLY ORDAINED that all ordinances that are inconsistent with this ordinance are rescinded, and that this ordinance shall become effective when ratified by the Principal Chief.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