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CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

Date: MAR 14 2019

ORDINANCE NO. 517 (2019)

WHEREAS, the Eastern Band of Cherokee Indians has three branches of government, all of which have separate powers and authorities under the Charter and Governing Document and under ordinances passed by Tribal Council; and

WHEREAS, the Executive Branch is established by the Charter and Governing Document and is described in more detail in Cherokee Code Chapter 117, and the combination of those sources provide, rather haphazardly, enabling legislation that allows the Executive Branch to perform many of the acts necessary to conduct the daily administration and to manage the daily operations of the Tribe; and

WHEREAS, historically, when a new Executive Branch administration comes into power, a large number of Executive Branch divisions, programs and personnel are shifted, changed, re-aligned or terminated, which decreases continuity in government, institutional knowledge, and sometimes reverses progress made by the Tribe in preceding administrations; and

WHEREAS, Tribal law does not adequately define Executive Branch divisions and programs, or how organizational changes may be made, or to what extent tribal law, policy, services and operations should remain intact from one administration to the next in order to preserve institutional knowledge, provide continuity, increase efficiencies, make the best use of budgeted funds, and better serve the public trust; and

WHEREAS, this ordinance is presented to express certain parameters for Executive Branch organization, responsibilities, authorities and operations.

NOW THEREFORE BE IT ORDAINED in Tribal Council assembled, at which a quorum is present, that Chapter 117C of the Cherokee Code is hereby adopted as a new Chapter of the Cherokee Code, to read as follows:

Chapter 117C

Article 1. General Provisions.

1 **§ 117C-1. Purpose.**

2
3 The purpose of the executive branch of Tribal government is to administer the law of the Tribe
4 and to provide for, and to conduct, the day-to-day operations of the Tribal government. It is in the
5 best interest of the public for the organizational structure of the executive branch to be clearly
6 expressed in this Chapter and by doing so the Tribe will improve efficiencies, promote institutional
7 expertise, and provide continuity and stability in government services for the benefit of the public.

8
9 **§ 117C-2. Divisions enumerated.**

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11 The following divisions are hereby established within the executive branch and shall
12 provide the primary organizational structure for the conduct of operations of the executive branch.
13 These divisions shall contain, within each, functionally-related programming and budgeting and
14 shall be organized into subunit departments and programs, as may be approved in each annual
15 budget and consistent with Tribal law.

- 16
17 (a) Division of Administration of Recreation and Community Education.
18 (b) Division of Agriculture and Natural Resources.
19 (c) Division of Cherokee Indian Police.
20 (d) Division of Commerce.
21 (e) Division of Corrections.
22 (f) Division of Education.
23 (g) Division of Public Health and Human Services.
24 (h) Division of Human Resources.
25 (i) Division of Information Technology.
26 (j) Division of Operations.
27 (k) Division of Treasury.

28
29 **§ 117C-3. Sub-unit references.**

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31 (a) The principal sub-unit of a division is a department. Each department should be headed by
32 a director.
33
34 (b) The principal sub-unit of a department is a program or office. Each program or office
35 should be headed by a manager.
36
37 (c) If further subdivision of management is necessary, programs or offices may be managed
38 in part by a supervisor.

39
40 **§ 117C-4. Changes to organization of executive branch.**

- 41
42 (a) Changes to the organizational structure of executive branch divisions, including sub-
43 units of divisions, shall be proposed and made only by the Principal Chief and subject
44 to approval by Tribal Council.
45

- 1 (b) The Principal Chief shall periodically examine the administrative organization of each
2 division and the Executive Branch with a view to promoting economy, efficiency, and
3 effectiveness.

4
5 **§ 117C-5. Policy-making authority and administrative powers of the Principal Chief.**

6
7 The Principal Chief shall be responsible for formulating and administering the policies of
8 the executive branch and the executive committee of Tribe.

9
10 **§ 117C-6. Continuation of functions between administrations.**

11
12 Each division shall be considered a continuation of the former executive structure and
13 former administration for the purpose of succession to all rights, powers, duties, and obligations
14 of the former executive structure and former administration.

15
16 **§ 117C-7. Unassigned functions and placement of agencies outside of a division.**

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18 Functions, duties, and responsibilities of any other agency established by Tribal law that
19 are not specifically assigned to a principal division, and that are not authorized and governed as
20 independent component units, political subdivisions or separate entities by Tribal law, shall have
21 a manager or director that is supervised by and reports to the Principal Chief.

22
23 **§ 117C-8. Appointment and authority of secretaries.**

- 24
25 (a) The Principal Chief shall have the responsibility and authority to appoint, and shall
26 appoint, the head of each Tribal division, to be known as the Secretary of the division.
27 The person appointed as Secretary shall serve at the pleasure of the Principal Chief.
28 The salary of the Secretary of a division shall be set by the Principal Chief and approved
29 as part of the budget for the Office of the Principal Chief.
30
31 (b) The Secretary of a division shall have the Principal Chief's delegated authority, as
32 delegated by the Principal Chief, for the daily supervision of the operations of the sub-
33 units of the division.

34
35 **§ 117C-9. Powers and duties of secretaries.**

- 36
37 (a) Authority. Each Secretary shall have the authority and the responsibility to provide
38 for the proper management and conduct of his division, consistent with applicable law
39 and policy.
40
41 (b) Assignment of functions. - Except as otherwise provided by Tribal law, the Secretary
42 of a division may assign or reassign any function vested in him or in his division to
43 any subordinate officer or employee of his division.
44
45 (c) Division staff. - The director of each department and manager of each program may
46 establish necessary subordinate positions within his department or program and

1 remove persons according to reasons and procedures established for such personnel
2 actions.

- 3
- 4 (d) Plans and Reports. - Each Secretary shall submit to the Principal Chief an annual plan
5 of work for the next fiscal year, prior to the beginning of that fiscal year, or within 60
6 days of when the appointment of a Secretary occurs at the beginning of a new
7 administration of the Principal Chief. Each Secretary shall submit to the Principal
8 Chief an annual report covering the conduct of activities by the sub-units of the division
9 for each fiscal year. These plans of work and annual reports shall be made available to
10 the Tribal Council. These documents will serve as the base for the development of
11 budgets for each division for submission to the Tribal Council.
- 12
- 13 (e) Collaboration within and outside division. - Each Secretary shall include in his plan
14 and report a description of collaborative efforts the division is making with divisions
15 and entities targeting one or more of the priority population indicators set by Tribal
16 Council under C.C. Chapter. 117B.
- 17
- 18 (f) Custody of records. - The Secretary of a division shall have legal custody of all public
19 records as defined in C.C. Chapter 132 that are produced or held by components of the
20 division.
- 21
- 22 (g) Rules, Policies and procedures. - The Secretary of each division and the head of each
23 sub-unit within each division should adopt general and specific policies and procedures
24 for the custody, use, and preservation of any public records, as defined in C.C. Chapter
25 132; which pertain to divisional or programmatic business processes; that govern the
26 internal management of the division, department, or program consistent with any more
27 general personnel policies approved by the Principal Chief for the general
28 administration of executive branch functions; and should adopt administrative rules
29 under the public rule making process set forth in C.C. Chapter 150 when required for
30 proper administration of responsibilities to the public.

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32 **§ 117C-10. Definitions.**

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34 The following definitions shall apply in this Chapter, unless context clearly requires
35 otherwise.

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- 37 (a) Agency means, as the context may require, an existing Division, or a functionally
38 related sub-unit within a Division, or a unit of operation established by law operating
39 outside of a division and reporting directly to the Principal Chief.
- 40
- 41 (b) Department means:
- 42 (1) a subunit within a Division; or
- 43 (2) a subunit created by tribal law or authorized within the tribal budget usually
44 containing more than one program of related and complementary functions that
45 benefit from coordinated management.
- 46

1 (c) Director means an official or employee responsible for the coordinated management
2 of a department that usually contains more than one program.

3 (d) Division means one of the divisions created by tribal law to serve as the primary unit
4 where departments and programs are managed, planned and budgeted for and under
5 the supervision of a single Secretary appointed by the Principal Chief.

6
7 (e) Manager means an official or employee responsible for one single program regardless
8 of whether the program is a part of a larger department or division.

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10 (f) Secretary means an official appointed by the Principal Chief to oversee the operation
11 of a division and under the direct supervision and responsibility of the Principal Chief.
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14 BE IT FINALLY ORDAINED that this ordinance shall become effective when ratified by the
15 Principal Chief and that all ordinances that are inconsistent with this law are rescinded.
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19 *Submitted by Principal Chief Richard G. Sneed*