

TABLED

CHEROKEE COUNCIL HOUSE  
CHEROKEE, NORTH CAROLINA

Date: MAR 14 2019

ORDINANCE NO. 517 (2019)

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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.**

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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.

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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.**

- 30  
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.

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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.**  
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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.**  
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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.**  
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- 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.
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- 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.

9  
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*