

TABLED

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

Date: MAR 05 2020

ORDINANCE NO.: 149 (2020)

Short Title: *an ordinance to amend C.C. § 161-3 governing qualifications for offices in Tribal elections.*

WHEREAS, Section 6 of the Tribe’s Charter and Governing Document empowers the Tribal Council to enact rules and regulations for the conduct of Tribal elections and the Tribe has codified its election laws at Cherokee Code Chapter 161; and

WHEREAS, in 2019, the Cherokee Supreme Court issued rulings in response to appeals from decisions of the Board of Elections that caused the Board, Tribal officials and the community generally to scrutinize the election ordinance to ensure that the Board fully complied with the Court’s rulings; and

WHEREAS, consistent with the requirements imposed on the Cherokee Supreme Court in C.C. § 7-12(2), the Court has reported to Tribal Council that there are several subjects within the election ordinance that should be clarified to give better guidance to the Board of Elections, to candidates, and to the Court; and

WHEREAS, C.C. § 161-3, governing qualifications for elected office, has been reviewed closely to ensure compliance with the Tribe’s Charter and Governing Document, and should be amended to ensure compliance with Tribal law; and

WHEREAS, in light of the foregoing, the Board of Elections has conducted a thorough review of the election laws and the amendments expressed herein are made to ensure that the election laws more clearly comply with the Tribe’s Charter and Governing Document and relevant decisions from the Cherokee Supreme Court, and by doing so will better facilitate fair and efficient elections.

NOW THEREFORE BE IT ORDAINED, by the Tribal Council of the Eastern Band of Cherokee Indians, in Council assembled at which a quorum is present, that C.C. § 161-3 shall be amended as follows:

Sec. 161-3. - Qualification for offices.

(a) In order to run for or serve as the Principal Chief or Vice-Chief, a candidate must:

- (1) Be an enrolled member of the Eastern Band of Cherokee Indians; and
- (2) Be at least 35 years of age by the date of the primary general election; and
- (3) Have resided on Cherokee trust land continuously for at least two years immediately preceding the date of the primary general election; and
- (4) Continue to reside on Cherokee trust land during their term of office; and
- (5) Be a registered voter with the Tribal Election Board.

- 1 (b) In order to run for or serve as a member of the Tribal Council, a candidate must:
- 2 (1) Be an enrolled member of the Eastern Band of Cherokee Indians; and
- 3 (2) Be at least 18 years of age by the date of the primary general election; and
- 4 (3) Have resided in the township which he or she is to represent for at least 90 days
- 5 immediately preceding the date of the primary general election; and
- 6 (4) Continue to reside in the township in which the candidate was elected during their term
- 7 of office; and
- 8 (5) Be a registered voter with the Tribal Election Board.
- 9 (c) In order to run or serve as a member of the Cherokee School Board, a candidate must:
- 10 (1) Be an enrolled member of the Eastern Band of Cherokee Indians; and
- 11 (2) Be at least 21 years of age by the date of the primary election; and
- 12 (3) Reside in the community the candidate represents for at least one year immediately
- 13 preceding the date of the primary election and continue to reside in that community during
- 14 the term of office; and
- 15 (4) Have received a high school diploma or the equivalent; and
- 16 (5) Be a registered voter with the Tribal Election Board.
- 17 (d) No person shall ever be eligible to file for or serve in any of the above Tribal Offices, if:
- 18 (1) The person has been convicted of, ~~pled guilty to, or entered a no-contest plea to~~ a felony;
- 19 or
- 20 (2) The person has aided, abetted, counseled, or encouraged any person or persons guilty
- 21 of defrauding the Eastern Band of Cherokee Indians or has defrauded the Tribe, or who
- 22 may hereafter aid or abet, counsel or encourage anyone in defrauding the Eastern Band
- 23 of Cherokee Indians; or
- 24 (3) ~~The person has been impeached and removed by the Tribal Council from any elected~~
- 25 ~~office or appointed office, for having violated his or her oath of office or being guilty of~~
- 26 ~~any offense making the person ineligible to hold said office; or or found guilty in any~~
- 27 ~~jurisdiction to have violated a law that would constitute a violation of Section 17 of the~~
- 28 ~~Charter and Governing Document of the Eastern Band of Cherokee Indians; or~~
- 29 ~~(4) The person resigned from Tribal elected or appointed office while under criminal~~
- 30 ~~investigation or under pending charges for fraud, or a violation of Section 17 of the Tribal~~
- 31 ~~Charter or Tribal Law; or~~
- 32 ~~(5) The person is more than 90 days in default of an obligation to pay a debt to the Tribe,~~
- 33 ~~which obligation is imposed by law, contract or court order and the default has not been~~
- 34 ~~cured; or~~
- 35 ~~(6)-(4) The person fails to meet the residency requirements for elected office.~~
- 36 (e) No person may file for, run for, or hold more than one Tribal elective office at any one time.
- 37 However, a person may run for Tribal elected office while holding a different Tribal office,
- 38 so long as the person resigns from the current elected office prior to taking the oath of office
- 39 for the newly elected office.
- 40 (f) No person is eligible to hold the office of Principal Chief, Vice-Chief or Tribal Council
- 41 member while simultaneously being a Tribal employee or an employee of a Tribal entity. A
- 42 Tribal employee may run for office, but if elected must resign prior to taking the oath of office
- 43 for Principal Chief, Vice-Chief, or Tribal Council.
- 44 (g) No person is eligible to hold the office for Cherokee School Board Member while
- 45 simultaneously being an employee or student of the Cherokee Central School System. An
- 46 employee of the Cherokee Central School system may run for a seat on the Cherokee School

1 Board, but that employee must resign from employment before taking the oath of office on
2 the School Board.

- 3 (h) Where this section requires a person to reside or to have resided on Cherokee trust land
4 generally or in a particular Cherokee township or community, that requirement shall mean
5 that the person has made that place their primary, permanent place of abode for the required
6 period. It is where ~~they~~ the person lives full-time except for temporary absences of relatively
7 short duration. All candidates and elected officials must continue to meet residency
8 requirements of their elected office for the duration of their candidacy and, if elected, for the
9 duration of their term(s). Any elected official who violates the residency requirement shall be
10 ineligible to hold the office, ~~and shall be removed therefrom by process of applicable law.~~
11 Suspected violations of the residency requirement shall be reported to the Board of Elections
12 in writing by the constituency of that elected office, e.g., Principal Chief or Vice-Chief
13 residency violations must be made by any enrolled member of the Tribe; Tribal Council or
14 School Board member residency violations must be made by an enrolled member of the Tribe
15 registered to vote in the township of the elected office.
16

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

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21 *Submitted by the Board of Elections.*