

TABLED

PASSED

JAN 14 2021

VETOED
DENIED

FEB 04 2021

Cherokee Council House
Cherokee, North Carolina

OCT 29 2020

Date

ORDINANCE NO. 360 (2020)

WHEREAS, the Charter and Governing Document authorizes and empowers the Eastern Band of Cherokee Indians (EBCI) Tribal Council to adopt laws and regulations and to enforce obedience with the enacted laws. Charter and Governing Document, sect. 23 (Sept. 5, 1995) *see also* C.C. §117-10.

WHEREAS, the EBCI Tribal Council constitutes the Eastern Band of Cherokee Indian's Legislative Branch of government and possesses the authority to conduct investigations and hearings into matters concerning the Tribe. C.C. §117-10.

WHEREAS, the Principal Chief cannot delay a Tribal Council investigation.

WHEREAS, in 2016, the Tribal Council saw the need to expand and strengthen the Legislative Branch by enacting Ordinance No. 53 (2016).

WHEREAS, to further strengthen the Legislative Branch, the Cherokee Code needs amending to allow the Tribal Council Chairman or Vice-Chairman signature authority on all Legislative Branch contracts.

WHEREAS, this Cherokee Code amendment will ensure there are no more delays with the Legislative Branch fulfilling their Charter and Code authority.

NOW THEREFORE BE IT ORDAINED by the Eastern Band of Cherokee Indians, in Council assembled, at which a quorum is present that the Eastern Band of Cherokee Indians Tribal Council amends the Cherokee Code Chapter 117-19, EXHIBIT A.

BE IT FURTHER ORDAINED that the provisions of this Article are declared to be severable and if any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by the Cherokee Court, it shall not affect the remainder of the Article which shall continue in full force and effect.

BE IT FURTHER ORDAINED the provisions of the Ordinance which amend or adopt new sections of the Cherokee Code shall be codified by the Department of Justice. The Department of Justice shall incorporate such amended provisions in the next codification of the Cherokee Code.

BE IT FINALLY ORDAINED that all ordinances inconsistent with this ordinance are rescinded, and that this ordinance shall become effective when ratified by the Principal Chief.

Submitted by: Albert Rose, Birdtown Representative

Cherokee Code
Chapter 117 – TRIBAL GOVERNMENT
ARTICLE II. – LEGISLATIVE BRANCH

Sec. 117-19. – Contracts with Tribe.

- a. Before a Contract with the Eastern Band of Cherokee Indians shall be valid and binding the following shall occur:
1. A Contract in an amount less than \$50,000 which complies with all budget, financial, and legal requirements for ~~that program and the Tribe~~ the Branch, and is within the fiscal parameters of the Annual Budget approved by Tribal Council, may be executed by ~~the Principal Chief~~ according to the respective subsections below.
 2. A Contract in an amount of \$50,000 or more which complies with all budget, financial, and legal requirements for that program and the Tribe, and is within the fiscal parameters of the Annual Budget approved by Tribal Council, shall have the approval of the Business Committee before being executed by the Principal Chief except that no contract over \$50,000 from the ~~Tribal Operations Program~~ Legislative Branch shall require Business Committee approval.
- b. All Contracts shall bear the signature of the Principal Chief before they are valid and binding on the Eastern Band of Cherokee Indians Executive and Judicial Branch.
- c. All contracts shall bear the signature of the Chairman or Vice-Chairman before they are valid and binding on the Eastern Band of Cherokee Indians Legislative Branch.

TABLED
AMENDED
PASSED

JAN 07 2016

Cherokee Council House
Cherokee, North Carolina

DEC 03 2015

Date

ORDINANCE NO. 53 (2015)

WHEREAS, the Charter and Governing Document of the Eastern Band of Cherokee Indians (EBCI) establishes the Tribal Council as the legislative branch of government; and

WHEREAS, the ongoing expansion and growth of the EBCI community has resulted in the expansion and growth of services provided by the tribal government; and

WHEREAS, such growth and expansion has created a need to better develop the support staff for Tribal Council.

NOW, THEREFORE, BE IT ORDAINED by the Eastern Band of Cherokee Indians in Tribal Council Assembled, at which a quorum is present that the Tribal Council of the Eastern Band of Cherokee Indians does hereby amend the Cherokee Code as follows:

ARTICLE I. - EXECUTIVE BRANCH

Sec. 117-3. - Economic and social programs.

The Principal Chief shall act on behalf of the Tribe ~~and the Tribal Council~~ as the authorized signator for any contract, grant or program concerning ~~Reservation~~ services by any federal or state agency or program. No state, county or municipal official shall have legal authority to sign for or approve the provision of services within Cherokee trust lands. All contracts with or for the benefit of the Eastern Band of Cherokee Indians shall be reviewed by the attorneys for the Tribe and signed by said attorneys as having been reviewed as to form, prior to the contracts being submitted to the Principal Chief for signature on behalf of the Eastern Band. Any contract promulgated through the Office of Legislative Support shall be reviewed by the Director of the Office of Legislative Support and shall be signed by the Principal Chief on behalf of the Office of Legislative Support.

ARTICLE II. - LEGISLATIVE BRANCH

Sec. 117-10. - Powers and authority generally.

The Tribal Council shall constitute the legislative branch of government for the Eastern Band of Cherokee. It shall have authority to legislate, to conduct investigations and hearings into matters of concern to the Tribe; it shall have sole power and authority to approve assignment and transfer of possessory rights to its lands among its members; and shall have quasi-judicial powers

to resolve disputes concerning Tribal lands and properties and other matters authorized by Tribal law. It shall have power to delegate its duties to committees formed from its membership and shall have the authority to establish an Office of Legislative Support and operate such office outside of Executive Branch duties and responsibilities. The Tribal Council must budget for the support and operations of the Legislative Branch during each budget year and shall manage its budget in coordination with the Tribe's financial management systems.

Sec. 117-10.1. - Office of Legislative Support.

(a)

(a)(2) Establishment. There is hereby created an Office of Legislative Support for the purpose of supporting the administrative and operational needs of the Tribal Council, the Legislative Branch of the Eastern Band of Cherokee Indians. The staff employed by the Office of Legislative Support are not tribal employees subject to the executive committee's hiring and daily management. Staff employed by the Office of Legislative Support and the responsibilities for the administration and operations of the Office shall be managed by the Director for the Office of Legislative Support.

(a)(b) Powers and duties. The Office of Legislative Support has the following powers and duties:

- (1) Pursuant to the direction of the Tribal Council, or of the chairman, to make or cause to be made such studies of and investigations into governmental agencies and entities and matters of public policy as will aid the Tribal Council in performing its duties in the most efficient and effective manner.
- (2) To report to the Tribal Council the results of the studies made. The reports may be accompanied by recommendations and legislation suggested to effectuate the recommendations.
- (3) To administer and support the functions and purposes of Tribal Council.

(c) Cooperation with the Office of Legislative Support. The Office of Legislative Support may call upon any division, department, program, agency or entity, or officer of the Tribe or of any political subdivision thereof for information and data as may be available or made available, and these divisions, departments, agencies, entities, and officers shall cooperate with the Office of Legislative Support to the fullest possible extent.

(d) Director and Staff. The Director shall be responsible for the administration of the Office of Legislative Support. The Director shall work closely with the Chair of the Tribal Council to set goals, priorities and initiatives for the Tribal Council and the Director shall hire and manage all Office staff and contracted support. The Office of Legislative Support shall be supported by the Tribe's established system for payroll, procurement of capital assets, and other administrative processes as may be requested by the Tribal Council Chairman in order to have the Office of Legislative Support function within existing administrative and support resources.

(e) Application of the Tribe's personnel policy. It is the intent of Tribal Council that all hired staff, including the Director, of the Office of Legislative Support shall have

the benefits and protections of the personnel policy applicable to all tribal employees, including procedures for corrective actions. In order to maintain a clear separation of duties and administration of Legislative activities, however, all staff serving the Legislative Branch shall be separate from the administrative authority of the Principal Chief and the Executive Committee. It shall be the responsibility of the Director, with the approval of the Tribal Chairman, to modify such tribal personnel policies and procedures, as needed, in order for such policies and procedures to be effective for the personnel needs of the Office Legislative Support. The Tribal Council Chairman shall have exclusive supervisory responsibility over the Director, and the Director shall have supervisory and personnel responsibilities over all other Legislative staff.

Sec. 117-19. - Contracts with Tribe.

(a) Before a Contract with the Eastern Band of Cherokee Indians shall be valid and binding the following shall occur:

- (1) A Contract in an amount less than \$50,000.00 which complies with all budget, financial, and legal requirements for that program and the Tribe, and is within the fiscal parameters of the Annual Budget approved by Tribal Council, may be executed by the Principal Chief.
- (2) A Contract in an amount of \$50,000.00 or more which complies with all budget, financial, and legal requirements for that program and the Tribe, and is within the fiscal parameters of the Annual Budget approved by the Tribal Council, shall have the approval of the Business Committee before being executed by the Principal Chief except that no contract over \$50,000 from the Office of Legislative Support shall require Business Committee approval.

(b) All Contracts shall bear the signature of the Principal Chief before they are valid and binding on the Eastern Band of Cherokee Indians.

~~Sec. 117-30.1. Office of Legislative Counsel for Tribal Council.~~

- ~~(a) The Legislative Counsel for Tribal Council will supervise and oversee the Tribal Operations Program, and provide research and legal analysis and support of the Tribal Council's mission at the direction of and under the legislative authority of the Tribal Council.~~
- ~~(b) The mission and responsibilities of the Office of Legislative Counsel will be to support Tribal Council in the areas of research, preparation of briefing materials, resolution and ordinance development, attendance and consultation at Council meetings and other meetings, and to advise Tribal Council.~~

~~(Ord. No. 410, 5-1-2013; Ord. No. 609, 9-23-2013)~~

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

Submitted by: Tribal Council Representatives Bill Taylor, Anita Lossiah and Travis Smith



Tribal Council

Chairman of Tribal Council

Legislative Legal Counsel/Director of Tribal Operations

TOP

PR/Events Coordinator

Legal Counsel No. 2

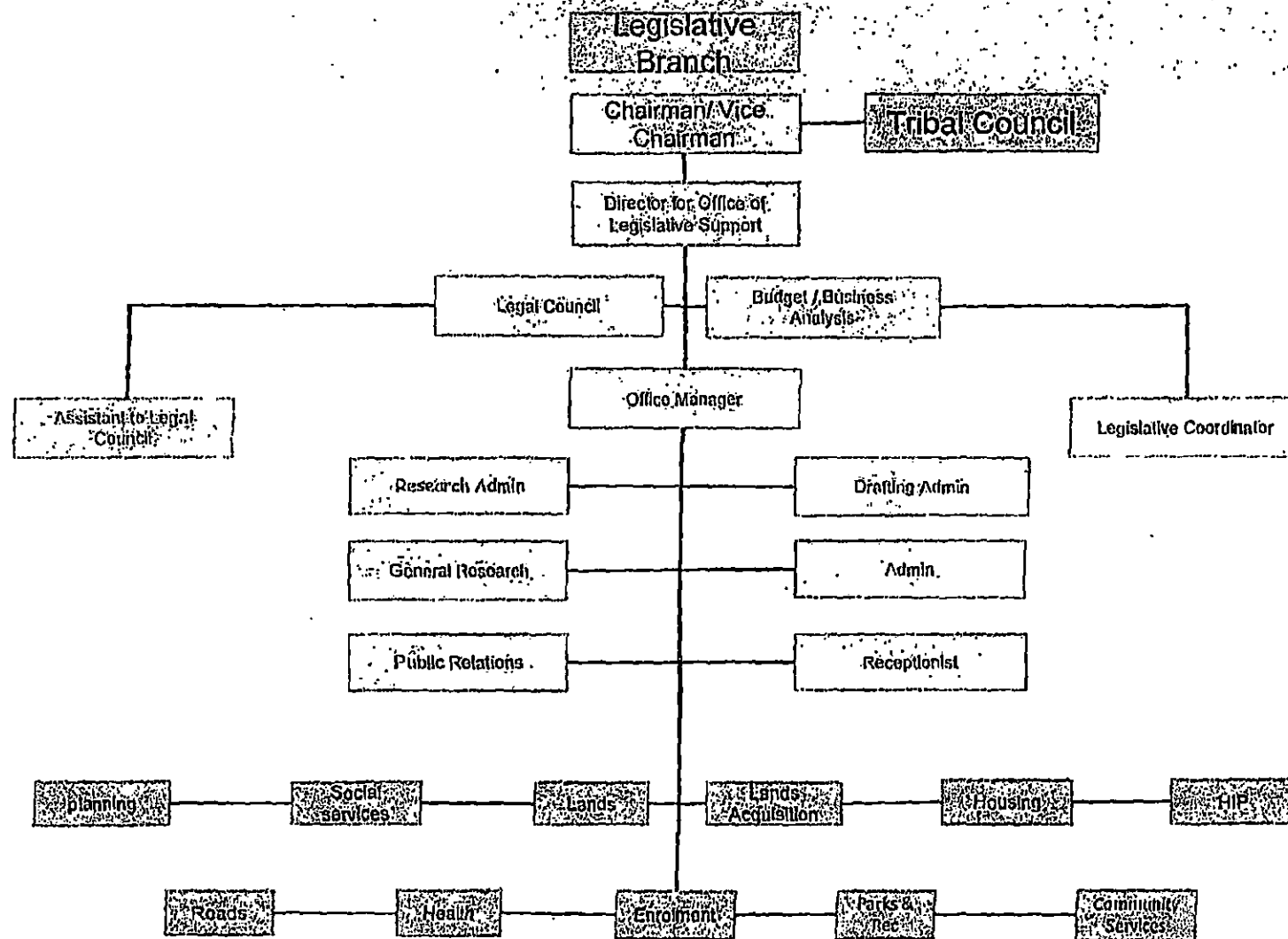
Manager

Assistant Manager

Administrative Assistant

TOP/Council Assistant

Tribal Council



Amendment to Ord. 53 (2016): Anywhere within the ordinance that reads,
"Office of Legislative Support," replace with "Tribal Operations
Program"

The attached Resolution/Ordinance No. 300 dated OCTOBER 29, 2020 was:

PASSED (X)

KILLED ()

d ratified in open Council on JANUARY 14, 2021 by 100 voting for the act
and 0 members voting against it as follows:

VOTE	FOR	AGAINST	ABSTAIN	ABSENT
Richard French	X			
Perry Shell	X			
Boyd Owle	X			
Bucky Brown	X			
Tom Wahneetah	X			
David Wolfe	X			
Adam Wachacha	X			
Bo Crowe	X			
Chelsea Saunooke	X			
Albert Rose	X			
Dike Sneed	X			
Tommye Saunooke	X			
	100	0	0	0


TRIBAL COUNCIL CHAIRMAN


ENGLISH CLERK


PRINCIPAL CHIEF

APPROVED () VETOED ☒

VETO UPHELD () VETO DENIED ☒ 02/04/2021

DATE: 1/21/21

I hereby certify that the foregoing act of the Council was duly:

PASSED ()

KILLED ()

and ratified in open Council after the same has been interpreted by the Official Interpreter and
has been fully and freely discussed.


INTERPRETED ()


OMITTED ()

The attached ORDINANCE 300 dated OCTOBER 29, 2020 was: VETOED and

UPHELD ()

OVERRODE (X)

On open Council on FEBRUARY 4, 2020 by 25 WEIGHTED VOTES to uphold the veto
and 75 WEIGHTED VOTES to override the veto

VOTE	UPHOLD	OVERRIDE	ABSTAIN	ABSENT
Perry Shell		X		
Richard French		X		
Boyd Owle	X			
David Wolfe	X			
Tom Wahnetah		X		
Bucky Brown		X		
Chelsea Saunooke		X		
Bo Crowe		X		
Adam Wachacha	X			
Albert Rose		X		
Dike Sneed		X		
Tommye Saunooke		X		
	25	75	0	19


TRIBAL COUNCIL CHAIRMAN


ENGLISH CLERK

VETO UPHELD () VETO DENIED (X)

DATE: FEBRUARY 4, 2021

INTERPRETED ()

OMITTED ()