

**TABLED
AMENDED
PASSED**
JUL 06 2017

**CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA**

Date: MAY 30 2017

ORDINANCE NO. 597(2017)

WHEREAS, under Cherokee Code (C.C.) Section 7-2(a), every person who enters the territory of the Eastern Band of Cherokee Indians (EBCI), by so entering, shall be deemed to have consented to the jurisdiction of the EBCI; and

WHEREAS, under C.C. 7-2(b), the Cherokee Court has original jurisdiction over all cases and controversies both criminal and civil in law or in equity which arise under the Charter, laws, customs, and traditions of the EBCI; and

WHEREAS, under C.C. 14-1.2, any person who enters the territorial jurisdiction of the EBCI is expected to comply with the laws of the EBCI even if they are not subject to the criminal jurisdiction of the court; and

WHEREAS, according to C.C. 14-1.5, all persons, regardless of race, age, or sex will comply with and be subject to the laws of the EBCI, and will be subject to all of the same charges and fines that enrolled members of the EBCI are subject to whenever they are within the boundaries of Qualla Boundary and its territories, as provided by law; and

WHEREAS, the Tribe established and now maintains the Eastern Band of Cherokee Indians Sex Offender Registry which the Cherokee Indian Police Department maintains and operates pursuant to the provisions of Article X., Chapter 14 of the Cherokee Code; and

WHEREAS, pursuant to C.C. 14-50.21, sex offender registration requirements of the EBCI apply to those subject to the provisions contained in subsection (b) of that Section; and

WHEREAS, the scope of the restricted area as defined in C.C. 14-50.21 is currently written in such a way that fails to implement the intent of the Tribe's sex offender registration legislation; and

WHEREAS, in order to maximize protection of all persons located within the territory of the EBCI there is a need for amendments to Article X of C.C. Chapter 14 regarding sex offenders.

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

Sec. 14-50.26. - Restrictions.

(a) Registered sex offenders shall:

- (1) ~~Shall~~ Avoid contact with minors and vulnerable adults. Registered sex offenders shall refrain from residing in any home or residence where a minor or a vulnerable adult resides (exceptions may apply when the registered sex offender is himself under 18 or in situations where a minor is a biological child of registered sex offender and parental rights have not been terminated). Registered sex offenders shall not be licensed nor permitted to work in or around the care of minors or vulnerable adults.
- (2) ~~In the event a registered sex offender seeks employment which may involve some contact with minors or vulnerable adults (for example, in a fast food restaurant), the sex offender must~~ Must first notify the prospective employer of his/her sex offender status in the event a registered sex offender seeks employment which may involve contact with minors or vulnerable adults (for example, fast food restaurants) prior to beginning such employment. It is unlawful for any offender to provide volunteer services, with or without compensation, at any place where a minor is present.
- (3) ~~Sex offenders w~~Who attend schools with minors or with vulnerable adults shall notify school administrators of his/her sex offender status. This must be done prior to enrollment, or, if the sex offender is already enrolled, notification must be done prior to attending any classes or school functions. Continuing enrollment must be approved by school administration.
- (4) ~~Shall~~ Enter, complete and pay for a mental health program specifically related to sexual offender therapy and abide by all policies and procedures of the sex offender treatment program.
- (5) ~~Shall~~ Refrain from the-use of illegal substances.
- (6) ~~Shall~~ Atobtain a substance abuse assessment and comply with all recommendations-of the assessment.
- (7) ~~Sex offenders a~~Are prohibited from knowingly being at any of the following locations:
 - (A) ~~p~~Public parks, playgrounds, school campuses (except per subsection (3) above), school buildings (including daycare centers) (except per subsection (3) above), libraries, museums, ~~school bus stops, activity buses, school buses, athletic, sports and recreation facilities, and fields and their parking lots, or the parking lots of any of the above.~~
 - (B) School bus stops, activity buses, school buses, school events (including school-sponsored or employee-supervised functions or field trips, on or off school property), bathing beaches, swimming and/or wading pools, campgrounds, movie theaters, or any place where it is reasonably believed that children may congregate. or the parking lot of any of the above.
 - (C) Areas in which minors under the age of 18 are present on at least a weekly basis for: education, care, recreational sports or other activities, and public swimming, as determined by the Cherokee Indian Police Department, provided:

(i) In determining which areas fall under this provision, the Cherokee Indian Police Department (or its designees) shall consider the likelihood of minors and vulnerable

adults being present at the place to be restricted, and the chilling effect of the use of the area by other patrons if the presence of sex offenders are not restricted.

(ii) The Cherokee Indian Police Department shall provide to the operators of the area signage to be prominently displayed to put offenders on notice that their access to such areas are prohibited.

(iii) The Cherokee Indian Police Department shall maintain a list of such areas, updated quarterly, and provide a copy of the list to each registered sex offender during their in person appearances at the Cherokee Indian Police Department.

- (8) ~~Sex offenders~~ shall not knowingly reside within 1,000 feet of the property on which any public or non-public school or child care center is located.
- (9) ~~Sex offenders residence may not be used to care for minors. Shall not care for minors or vulnerable adults at their residence, or allow their residence to be used for the care for minor or vulnerable adults (except per subsection (1) above).~~
- (10) ~~Sex offenders a~~ Are prohibited access to commercial social networking Web sites that permit minors to become members or to create or maintain personal Web pages on the commercial social networking Web site.
- (11) It is shall be illegal for anyone who has reason to believe that an sex offender is in violation of Tribal, State or Federal laws to intentionally assist the sex offender in eluding arrest by withholding information or failing to notify law enforcement of the sex offender's non-compliance, and if known, the whereabouts of the sex offender.
- (12) Hindering rancee of sex offender registration:
- a. A person is guilty of an offense if they:
 1. Knowingly harbor or ~~knowingly~~ attempt to harbor, or knowingly assist another person in harboring or attempting to harbor a sex offender who is in violation of this article;
 2. Knowingly assists a sex offender in eluding a law enforcement agency that is seeking to find the sex offender to question the sex offender about, or to arrest the sex offender for, noncompliance with the requirements of this article; or
 3. Provides information to a law enforcement agency regarding a sex offender which the person knows to be false.
 - b. Hindering sex offender registration shall be punishable by a fine not to exceed \$5,000.00 by a term of imprisonment not to exceed one year, or both.

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

AMENDMENT TO ORD. NO. 597 (2017): In number 9.) strike, "BUSED," and replace with "BE USED" Strike Number 10 in its entirety, "~~10.) sex offenders are prohibited access to commercial social networking web sites that permit minors to become members or to create or maintain personal web pages on the commercial social networking web site.~~"

The attached Resolution/Ordinance No. 597 dated May 30, 2017 was:

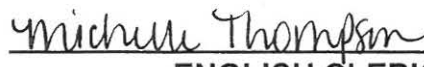
PASSED (X)

KILLED ()

and ratified in open Council on July 6, 2017 by 88 voting for the act
and 0 members voting against it as follows:

VOTE	FOR	AGAINST	ABSTAIN	ABSENT
Teresa McCoy	X			
Richard French	X			
Travis Smith	X			
B Ensley	X			
Anita Lossiah	X			
Brandon Jones	X			
Bill Taylor				X
Bo Crowe	X			
Adam Wachacha	X			
Albert Rose	X			
Marie Junaluska	X			
Tommye Saunooke	X			
	88	0	0	12


TRIBAL COUNCIL CHAIRMAN


ENGLISH CLERK


PRINCIPAL CHIEF

APPROVED  VETOED ()

DATE: 7/25/17

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 ()