

## Chapter 40

### **EMINENT DOMAIN\***

- Sec. 40-1. Condemnation of land for public purpose.
- Sec. 40-2. Compensation of land holder.
- Sec. 40-3. Determination of land value.
- Sec. 40-4. Construction while suit is pending.

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\*Cross references—Real property, ch. 47; roads and highways, ch. 136A.

**Sec. 40-1. Condemnation of land for public purpose.**

The Tribe shall have the power to condemn land within the Cherokee Indian Reservation whenever such land is deemed by the Tribal Council to be necessary for a public purpose. The exercise of eminent domain shall be initiated by the Tribal Council passing a resolution identifying the land to be taken for a public purpose, the possessory holder and leasehold tenants and the purpose for which the land will be used.

**Sec. 40-2. Compensation of land holder.**

The possessory holder or leasehold tenant shall be compensated for such condemnation by payment of the value of the improvements or betterments placed on the land.

**Sec. 40-3. Determination of land value.**

If the possessory holder or leasehold tenant does not agree with the Tribe on the value of the improvements or betterments, the Tribe shall file suit in the Cherokee Court and deposit with the Clerk a sum equal to the Tribe's appraised value of the improvements or betterments. The actual value shall be determined by a jury of six Tribal members.

**Sec. 40-4. Construction while suit is pending.**

The Tribe may proceed with construction of the public purpose while the suit is pending but not without having first obtained the agreement of the possessory holder or leasehold tenant or having filed suit and deposited an amount equal to the appraised value of improvements or betterments.

(Charter, § 24; Ord. No. 19, 11-7-1991)