

TABLED

Cherokee Council House  
Cherokee, Qualla Boundary (NC)

Date: SEP 06 2012

ORDINANCE NO. 310 (2012)

WHEREAS, Resolution 676 (1987) established a sign ordinance; and

WHEREAS, Resolution 709 (2007) was enacted as a substitute sign ordinance;

WHEREAS, It is in the best interests of the Tribe to enact another substitute sign ordinance.

NOW THEREFORE BE IT ORDAINED by the Tribal Council of the Eastern Band of Cherokee Indians assembled, at which a quorum is present, that Chapter 136 of the Cherokee Code is amended **in the nature of a substitute** as follows:

**ARTICLE I. BILLBOARDS**

**Sec. 136-1. Scope.**

The provisions of this article shall govern the number, size, location and character of all billboards which may be located on the Cherokee Indian Reservation. No billboards shall be allowed on the Cherokee trust lands except in accordance with the provisions of this article.

**Sec. 136-2. Jurisdiction.**

All billboards shall be under the sole and exclusive jurisdiction of the Tribal Council of the Eastern Band of Cherokee Indians. No billboards shall be allowed on Cherokee trust land except with the approval of the Tribal Business Committee.

The Planning Office and its successor offices shall serve as the primary staff for the administration of this article, at the direction of the Business Committee. Staff duties shall include, but not be limited to, review of billboards, the enforcement of rules and decisions of the Business Committee, for offering recommendations to assist in regulatory efforts, and referring billboard matters not delegated to the staff to the Business Committee for its consideration. The extent practicable, the Business

Committee and the Planning Office shall administer this article and the regulation of billboards in the same manner as the site review process expressed in Cherokee Code Section 47-2.

The Business Committee is authorized to adopt standards, rules and procedures for the regulation of billboards so long as such measures are consistent with this article and are not less restrictive than this article.

**Sec. 136-3. Billboards prohibited.**

Billboards shall not be allowed within the Business District of the Qualla Boundary of the Cherokee Indian Reservation. The Business District is defined, for the purposes of this article, as those geographic areas including:

- (1) On and along US 19 from the intersection of Standingdeer Road running in a westerly direction to Owl Branch Road,
- (2) On and along US 441 from the exterior boundary line of the Cherokee Indian Reservation to the intersection with US 19,
- (3) On and along White Water Drive from the intersection of US 441 to the intersection of US 19.
- (4) On and along US 441 where it intersects with US 19 to the entrance of the Great Smokey Mountain National Park,
- (5) On and along Aquoni Road, and
- (6) From Saunooke Village along Big Cove Road to Cherokee High School.

**Sec. 136-4. Billboard permit required.**

(a) All billboards placed within the Qualla Boundary shall require a permit issued by the Business Committee. A fee of \$250.00 shall be required for each sign placed after the effective date of this article.

(b) A permit issued for a billboard shall describe the location of the sign and shall be for a term not to exceed three years.

(c) All billboards that are erected or in place prior to the adoption of this article, or any amendment thereto, require a permit or statement of noncompliance. Such statements or

permits shall be issued by the Business Committee within 120 days after January 1, 2013, or subsequent additions hereto, for which no permit fee shall be collected. In the event the Business Committee fails to issue a permit or statement on noncompliance within the 120-day period, the billboard owner shall assume that the billboard is in compliance with all provisions of this article and that the billboard shall be permitted to stand or be removed within the time periods set forth in Sec. 136-6. The billboard owner may request that the Business Committee issue a permit stating such.

(d) Billboard permit applications that are denied shall include a list of all findings and reasons for such denial.

### **Sec. 136-5. Billboard regulations.**

Billboards, where allowed, shall be subject to the following limitations and requirements:

(a) *Height.* The top of any billboard shall not be higher than 30 feet above the natural established grade of the parcel or lot upon which it is located or placed, and in no case shall double-decker billboards be allowed.

(b) *Spacing.* No billboard shall be nearer than 500 feet to another billboard along the same side of a common right-of-way.

(c) *Size.* No billboard shall exceed 36 feet in length or 378 square feet in area, inclusive of any border and trim, but excluding the base or apron, support and other structural members. The maximum size limitation shall apply to each side of a billboard structure. Two or more billboards may be grouped back-to-back, end-to-end or in a single V having an included angle not greater than 30 degrees at a single location. The aggregate area of such billboards at a single location facing the same direction shall not exceed 378 square feet, and any such grouping of billboards shall not exceed 36 feet in length.

(d) *Calculating number of billboards.* A single billboard containing copy on one side shall be counted as one billboard. Every other billboard shall be counted as a separate sign for each face thereof.

(e) *Separation.*

(1) No billboard shall be located or placed so as to face a parcel or lot on the same street, occupied by a church, public school, public park or recreational facility, or cemetery, nor nearer to such uses than 200 feet along a common right-of-way.

(2) No billboard shall be located or placed closer than 60 feet to the intersection of any two street lines.

(3) No billboard shall be located or placed nearer than 50 feet to any parcel or lot measured along a common right-of-way where the principal or main use is residential.

(4) No billboard shall be located or placed in any setback area established or required by any right-of-way easement or zoning regulation. No billboard shall be located or placed so that any part of such billboard extends nearer to a street line than any building or structure on contiguous property, where such building or structure is within 100 feet of such billboard.

(f) *Setback.* No billboard shall be erected closer than 15 feet to an adjacent street right-of-way, or greater distance where otherwise required.

(g) *Angle.* No single-faced billboard shall have an interior angle from the road right-of-way to the face of the billboard in excess of 45 degrees, except where structural members of the billboard are screened by natural or manmade barriers.

(h) *Safety.* The Chief of Police of the Cherokee Police Department shall have the authority to order removal of any billboard which, upon investigation, and after notice in writing to the owner of record thereof, he finds to obscure the effectiveness of an official traffic sign or signal or physically interferes with the driver's view of approaching, merging or intersecting traffic.

(i) *Sign matter and copy.* No billboard shall be allowed for the display of any statement, word, character or illustration of an obscene, indecent or immoral nature, or to be adverse to the interests of the Eastern Band of Cherokee Indians.

(j) *Aesthetics.*

(1) At least every 12 months, all billboard structures shall be painted and the message area shall be renewed.

(2) The name of the owner of the billboard shall be attached to each billboard structure and be legible from the nearest street right-of-way.

(3) Upright billboard supports above the lower edge of the billboard which are visible from a right-of-way shall be covered or shielded with a facing.

(4) Billboards allowed under this article may be illuminated.

(5) Animated billboards shall be prohibited.

(k) *Construction standards.* All billboards shall be constructed and erected so as to comply with the Building Code adopted by the Eastern Band of Cherokee Indians.

**Sec. 136-6. Nonconforming billboards.**

(a) All existing billboards which are located within the Business District as defined in section 136-3 shall be removed.

(b) All existing billboards which become nonconforming by virtue of the adoption of this article shall be removed within three years of the effective date of this article, or upon termination of the present lease, permit or license, whichever occurs earlier, except as provided under subsections 136-5(h), (i), and (j) which shall be effective immediately upon adoption of this article.

(c) All nonconforming billboards shall be discontinued or altered to conform on the following schedule:

<i>Original Cost of Sign</i>	<i>Amortization Period</i>
Less than \$500.00	6 months
\$500.00 to \$1,000.00	12 months
\$1,000.00 to \$3,000.00	24 months
More than \$3,000.00	36 months

**Sec. 136-7. Removal of nonconforming billboards and enforcement.**

(a) All billboards found to be nonconforming with this article, including preexisting nonconforming billboards, shall be issued a statement of noncompliance by the Business Committee listing all reasons for such finding.

(b) Notwithstanding Sec. 136-6, all billboards issued a statement of noncompliance under this section shall be removed, changed or altered to conform with this article within 30 days if such sign presents an immediate danger to the public health or safety or within 90 days for all other billboards.

(c) Failure to remove, change or alter a nonconforming billboard within the period specified by this article shall result in the removal of said billboard by the Tribe at the direction of the Business Committee at the expense of the owner of said billboard.

(d) If the owner or lessee of a nonconforming billboard that has been removed by the Tribe fails to pay for the costs of removal within 30 days of the billing date for such

action, a lien shall be placed against the property of the owner or lessee and the Business Committee shall certify the same to the Tribal Attorney for collection. The amount certified by the Business Committee to the Tribal Attorney for collection shall include the actual cost of removal of such billboard, plus 15 percent of the total cost, representing penalty and interest for costs of collection.

**Sec. 136-8. Variances.**

Variances shall be submitted to the Planning Office for review and forwarded to Business Committee for approval or denial.

**Sec. 136-9. Rental rates and procedures.**

(a) To encourage the highest economic return to the Eastern Band of Cherokee Indians and its enrolled Tribal members, consistent with prudent management and conservation practices, no approval shall be given for any billboard at less than the present fair annual rental. In the discretion of the Tribal Business Committee, billboards may be approved:

(1) At less than the fair annual rental when such action would be in the best interest of the Eastern Band of Cherokee Indians;

(2) At a nominal rental, for a duration of not more than 60 days, for religious, educational, recreational or other public purposes.

(b) The Eastern Band of Cherokee Indians is committed to a policy of managing its assets in the best interest of all enrolled Tribal members and shall be entitled to receive five percent of all rental income derived from billboard locations and sites placed on lands assigned to Tribal members. It shall be the responsibility of all lessees, permittees and others to make arrangements to comply with this provision.

**Sec. 136-10. Duration.**

Leases, permits and other arrangements approved for the purpose of billboards shall be for a term not to exceed three years duration from the date of final approval and may permit a renewal or extension with the consent of the property owner. Upon the expiration or termination of any lease, permit or agreement for billboards, the owner of the billboard shall have up to 30 days to remove the billboard structure and any other

improvements placed on the location or site, and to restore the parcel or lot to its original condition as of the commencement of the lease, permit or agreement. Thereafter, such billboard structure and any other improvements shall become the property of the lessor or permitor unless specifically excepted therefrom under the terms of the lease, permit or agreement.

### **Sec. 136-11. Definitions.**

(a) *Building* shall mean any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of persons, animals or property of any kind. This definition shall include tents, awnings or vehicles serving in any way the function of a building.

(b) *Erected* shall include built, constructed, reconstructed, moved upon or any physical operation on the premises required for the placement of a billboard. Excavation, fill, drainage, site preparation and the like shall be considered a part of the erection.

(c) *Established grade* shall mean the average elevation of a parcel or lot. Public sidewalks around or abutting a parcel or lot, or in the absence of sidewalks, public streets abutting the parcel or lot, may be included in the computation of average elevation for purposes of lowering but not raising the average elevation.

(d) *Height of billboard* shall mean the vertical distance from the established grade to the highest point of a billboard.

(e) *Parcel or lot* shall mean a tract of land designated, identified or treated as a single unit of area by the Eastern Band of Cherokee Indians.

(f) *Setback* shall mean the minimum distance between the street line, or base building line, and the front line or side line of the building or any projection thereof, excluding projections specifically permitted.

(g) *Billboard, animated* shall mean a billboard which involves motion or rotation of any part by any means, or displays flashing, intermittent or color-changing light or lighting.

(h) *Billboard, area of* shall mean the total surface of a billboard, including its background and frame but not structural supporting elements outside its frame. Where a billboard is composed of skeleton letters, characters or symbols applied to a frame or to a background, which is not a structural part of the billboard, the area of the billboard shall be the smallest rectangle, triangle or circle which will include the display. Where a billboard is built with two faces back-to-back, the area of the billboard shall be the larger of the areas of the two faces computed as specified herein.

(i) *Billboard* shall mean a sign designed for the application of letters, numerals, symbols, characters or illustrations by painting, light projection, bills or posters, which is to be changed periodically.

(j) *Billboard, illuminated* shall mean a billboard which is partially or wholly illuminated by electric lights designed and provided for such illumination.

(k) *Street* shall mean a public thoroughfare 20 feet or more in width which affords principal means of access to abutting property.

(l) *Street line* shall mean the right-of-way line of a street or the base building line, whichever will provide for a greater width of street.

(m) *Structure* shall mean anything constructed or erected, which requires location on the ground or attached to something having location on the ground. This definition shall include billboards.

(n) *Use, building or commercial* shall mean an ongoing use related to or connected with trade or commerce, such as supplying a product or service to the public for financial gain. Occasional, single or isolated business or commercial activities shall not constitute a principal or main use.

(o) *Use, principal or main* shall mean the primary use of a parcel or lot as distinguished from secondary or accessory uses. There may be more than one principal or main use on a parcel or lot.

(p) *Use, residential* shall mean a use for living or sleeping of persons, such as a single-family, duplex or multiple dwelling, hotel, motel, lodging house, villas or mobile home.

(q) *Variance* shall mean a modification of, or deviation from, the regulation of this article, which is authorized and approved by the Business Committee after it finds that the literal application of the provisions of this article would cause undue hardship or practical difficulty in the use or development of a specific parcel, lot or building.

(r) *Yard* shall mean a space on the same parcel with a structure, open and unobstructed from the ground to the sky except by encroachments specifically permitted. Yard measurements shall be the minimum horizontal distances. Yards shall extend and be measured inward from the respective parcel or lot lines.

#### **Sec. 136-12. Effective date.**

This article shall be effective upon enactment and ratification.



## ARTICLE II. SIGNS

### Sec. 136-13. Statement of purpose.

The purpose of this article is to permit signs that will by their reason, size, location, construction and manner of display promote economic and social activities that are consistent with the Cherokee Indian Reservation's history and environment. Regulations are designed to enhance the quality of visual communications and to promote the welfare and safety of residents and visitors alike. This article shall apply to all signs visible to vehicular or pedestrian traffic on all roads, streets or adjoining sidewalks.

### Sec. 136-14. Scope of article.

This article shall apply to all signs located within the Qualla Boundary of the Cherokee Indian Reservation.

### Sec. 136-15. Definitions.

(a) *Advertising sign* shall mean a sign which directs attention to a business, commodity, service or entertainment sold, manufactured or offered. Signs are further classified according to location, as follows:

(1) On the same premises as the business, commodity, service or entertainment advertised by the sign;

(2) Remote from the business, commodity, service or entertainment advertised by the sign.

(b) *Awning sign* shall mean a sign constructed of a fabric-like, nonrigid material which is part of a fabric or plastic awning. Awning signs constructed of a flammable substance are prohibited.

(c) *Banner* shall mean any sign made of a flexible fabric-like material except an awning sign.

(d) *Billboard* – see Article I.

(e) *Border* shall mean a strip along the edges of a sign that outlines the display.

(f) *Canopy* shall mean any shelter-like structure attached to a building and projecting over public or private property.

(g) *Commercial/business sign* shall mean signs which are placed on buildings listing the name of one or more businesses, activities, products, or professional offices conducted or sold within a building, group of buildings, or commercial center.

(h) *Construction sign* shall mean a sign which identifies firms or builders which are erected on the construction site prior to or during the period of construction.

(i) *Designee* shall mean an individual appointed by the Sign Committee to carry out the duties and responsibilities normally incurred by the Building Inspector in absence thereof.

(j) *Directional sign* shall mean an on-premises sign which carries no advertising message but simply the name or logo of an establishment and information directing persons to parking areas, entranceways or exitways, etc.

(k) *Directory sign* shall mean a freestanding sign which contains or lists the names of businesses, activities or offices located within a building, group of buildings, commercial center or geographic area.

(l) *Faces* shall mean the direction in which a display is aimed.

(m) *Festival sign* shall mean signs which are placed to commemorate or attract attention to a festival recognized by the Tribe.

(n) *Freestanding sign* shall mean a sign that is not attached to any building structure. Such signs shall include, but not be limited to, signs mounted on poles and "A" frame signs.

(o) *Signs* shall mean any letter, symbol, number or combination thereof, which can be seen from the right-of-way of a public street or highway.

(p) *Holiday decorations* shall mean normal and reasonable decorations associated with the celebration of a nationally or Tribally recognized holiday.

(q) *Identification sign* shall mean a sign which carries no advertising message and is used to identify only the following:

(1) The name of an institutional or organization occupying the premises on which the sign is located;

(2) The name, title, occupation or profession of the occupant of the premises on which the sign is located;

(3) The name and type of nonretail business occupying the premises on which the sign is located; or

(4) The name of the building on which the sign is located, including the name and type of firms occupying the building.

(r) *Illuminated sign* shall mean a sign that is illuminated by electric or other devices mainly for clear visibility at night.

(s) *Incidental sign* shall mean a sign which carries no advertising message and is clearly incidental to other major advertising signs on-site and which is used to do one or more of the following:

(1) Direct vehicular or pedestrian traffic flow;

(2) Indicate location of access or exit points;

(3) Direct specific activities to specific areas, (i.e., parking, waiting, etc.); or

(4) Provide other incidental information.

(t) *Industry standard sign* shall mean a sign specific to and used in the normal course of commerce in which that industry operates.

(u) *Marquee sign* shall mean a sign affixed to a hood or projecting roof structure over the entrance to a building, store, or place of public assembly with changeable letters.

(v) *Nameplate sign* shall mean a sign located on the premises that identifies a business or occupation.

(w) *Natural grade* shall mean the highest elevation at which the base of the sign and the ground meet.

(x) *Noncommercial sign* shall mean a sign designed and intended to promote, support, or call attention to a cause, nonprofit and noncommercial service, political message of an individual, political group or other entity.

(y) *Off-premises directional sign* shall mean a freestanding sign located off-premises which contains or lists the name and location of multiple businesses, activities or offices.

(z) *Outdoor advertising device* shall mean twirlings, balloons, flags, lights and other similar materials used to attract attention.

(aa) *Political sign* shall mean a sign attracting attention to political candidates or issues during an election campaign.

(bb) *Portable sign* shall mean a sign which rests on the ground or other surface, but is not directly attached to such surface, and which is designed or constructed to be easily transported from one place to another.

(cc) *Poster* shall mean any sign made of a rigid or semirigid, nondurable material, such as paper or cardboard, other than advertising copy applied to a permanent sign structure.

(dd) *Projection sign* shall mean a sign projecting out from and attached to the exterior wall of any building and forming an angle of 30 degrees or more to such wall.

(ee) *Reader board* shall mean a permanent sign affixed either to the wall of a structure or to an existing freestanding sign which is comprised of a surface to which letters may be attached on a temporary basis. Reader boards shall not serve as a substitution for identification signs.

(ff) *Restaurant* shall mean an establishment where meals are served inside the building to seated persons. The word "restaurant" shall not include drive-in or carryout establishments, snack bars, refreshment stands, or any establishment where food is prepared for consumption primarily off premises.

(gg) *Roofline* shall mean the highest point of the roof of the building or structure.

(hh) *Roof sign* shall mean a sign constructed upon the roof of a building.

(ii) *Sign area* shall mean the area of a sign which shall be determined by measuring the display and border parts of a sign structure. If the sign is composed in part or in whole of freestanding letters, devices, or sculptured matter and not mounted on a measurable surface, the sign area shall be construed to be the area of the least squares, rectangles, or circles that will enclose the letters, devices or sculptured matter.

(jj) *Sign height* shall mean the vertical distance which shall be measured from the street grade of the closest point in the street on which the sign is located or the grade at the base of the sign, whichever is higher, to the highest point of the sign structure.

(kk) *Street grade* shall mean the elevation of the centerline of the street or highway.

(ll) *Special attraction* shall mean an entertainment, cultural or historical attraction conducted either indoors or outdoors with a minimum seating capacity of 500 or an admission charge for adults of \$5.00 or more.

(mm) *Special attraction sign* shall mean a sign providing directions and/or other key identifying information, but with no advertising message, about one or more special attractions.

(nn) *Surface area* shall mean the surface area shall be measured by the square, rectangle,

semicircle, or parallelogram of the sign, and comprise the entire sign, including any border or trim and all elements of the matter displayed, but excluding the base or apron, supports or other structural members. In the case of three-dimensional letters or painted letters directly on a wall surface, the surface area shall be defined as the area encompassing the individual letters themselves including any trim or border and excluding the background that supports the three-dimensional letters.

(oo) *Suspended sign* shall mean a sign which is suspended from the underside of a horizontal surface, such as a canopy, marquee, or wooden brace and is supported by such surface.

(pp) *Temporary sign* shall mean a sign that can be used for a limited period of time as specified by this article.

(qq) *Traffic signs* shall mean signs indicating federal, state, or Tribal regulations for automobile, truck, bicycle or pedestrian traffic.

(rr) *Tribe* shall mean the Eastern Band of Cherokee Indians.

(ss) *Variance for industry standards* shall mean an authorization by the Business Committee to an entity in possession of the property to depart from literal requirements of zoning regulations in utilization of his property in cases where strict enforcement of this article would cause undue hardship.

(tt) *Wall sign* shall mean a sign affixed to the surface of the exterior wall of a building, or which forms an angle of less than 30 degrees with such wall and does not project out from the wall more than 24 inches. No wall sign shall extend above the roofline of the building upon which it is located. In cases of flat roofs, no sign shall extend above the parapets. Mansard roofs with an angle of 60 degrees or more from horizontal shall be considered as wall space for the placement of graphics.

(uu) *Window sign* shall mean any sign visible from the exterior of a building because it is placed directly behind or in front of a glass window or opening in a building.

## **Sec. 136-16. Signs exempt from article.**

Signs which are exempt from this article's provisions are as follows:

(a) Signs erected by a governmental agency to regulate, control or direct traffic; including signs indicating bus stops, taxi stands, similar transportation facilities, and markings on public roads. Such signs may be illuminated, flashing or moving as required for public safety. Signs erected by a governmental agency which convey information regarding a

public service or the location of a public facility may also be illuminated.

(b) Direction, public service and welcome signs constructed by the Tribe.

(c) Signs required by law including, but not limited to, building permits, exit signs, etc.

(d) Signs which warn of hazards to life, limb and property, such as high voltage electrical equipment and explosives.

(e) "No trespassing" signs no larger than four square feet of surface area.

(f) Trade names, logos, symbols or other graphics which are customarily painted on newspaper stands, soft drink dispensers, or gasoline pumps.

(g) The display of holiday decorations and festival graphics.

(h) Signs indicating finance or credit information such as VISA, MASTERCARD, etc., not larger than one square foot per store front.

(i) One freestanding church sign on church property, or two freestanding church signs on church property if a church is located on a corner lot. One sign may face each street that borders the lot. Exempt church signs shall not exceed 36 square feet in surface area per side of graphic up to a maximum of 72 square feet of aggregate surface area.

(j) One church reader board not larger than 12 square feet of surface area.

(k) One church directional sign. These signs may be located on private property with written permission of the owner, at the nearest intersection of the major thoroughfare or public street to the site of the church.

(l) The display of the flag of the United States, North Carolina, or the Tribe.

(m) Private residential signs indicating the name, box, or house number of a particular residence no larger than two square feet.

#### **Sec. 136-17. Prohibited signs.**

(a) No sign shall be located in a manner or place so as to constitute a hazard to traffic.

(b) No freestanding sign shall be located in a street right-of-way or project over a street right-of-way.

(c) No sign shall obstruct or substantially interfere with any window, door, fire escape,

stairway, ladder or opening intended to provide light, air, access or exit for any building.

(d) Billboards shall be permitted only as set forth in Article I.

(e) No signs shall be painted on a roadway or posted to utility poles, trees, fences, rocks, or other signs.

(f) No portable signs or banners shall be permitted, except portable signs or banners placed for one period of not more than 30 days to announce the opening of a new business, or the change of management or ownership of an existing business.

(g) No commercial or industrial building or enterprise with a wall or roof sign shall be permitted to construct or maintain a freestanding sign unless such building or business shall have private off-street parking for at least 15 vehicles.

### **Sec. 136-18. Commercial and industrial signs.**

(a) *Area of wall and roof sign.* The maximum area of a sign attached to any building shall be calculated as follows: The total area of all signs for each unit of occupancy in a building shall not exceed two square feet per linear foot of each exterior building wall facing a public street or facing a private access way. Only one wall or roof sign may be erected per unit of occupancy for each exterior building wall facing a public street or private access way. The size of each wall or roof sign shall be based only on the linear distance of one wall and building which face more than one street or access may not base the size of any sign on the aggregate linear distance of such walls.

(b) *Projected and suspended sign.* Projected or suspended signs shall be limited to one per business per building front not to exceed 32 square feet per side of sign up to a maximum of 64 square feet of aggregate surface area for the entire sign, provided that the aggregate sign space does not exceed the maximum size allowed in subsection (a) of this section.

(c) *Overhanging sign.* Sign overhanging any sidewalk shall be placed at least nine feet above the sidewalk and shall not extend over the sidewalk a distance equal to or greater than two-thirds the width of the sidewalk.

(d) *Reader board.* Reader boards shall be limited to one per store front, not to exceed 32 square feet of aggregate surface area, provided the aggregate sign space does not exceed the maximum allowed in subsection (a) of this section.

(e) *Freestanding sign.* Detached or freestanding signs, excluding private directional signs, shall be limited to one per commercial or industrial site, not to exceed 32 square feet in surface area per side up to a maximum of 64 square feet of aggregate surface area for the entire sign. All detached or freestanding signs shall be located on the immediate

premises of the advertised commercial establishment and shall be no closer than six feet to any street pavement. Detached or freestanding signs for a hotel or motel, gasoline service station or franchised restaurant or food service business and those businesses providing private off-street parking for at least 15 vehicles shall be limited to one per commercial or industrial site, not to exceed 450 square feet of aggregate surface area for the entire sign.

(f) *Private directional sign.* Private on-site directional signs shall not be over four feet in sign height, and shall not have a surface area greater than ten square feet per side of sign up to a maximum of 20 square feet in aggregate surface area.

(g) *Sign height.* No new or replacement freestanding sign shall be greater than 25 feet in height, measured from the adjacent road grade to the uppermost point of the sign. Existing freestanding signs may not be greater than 40 feet in height.

(h) *Common area sign.* Where two or more premises share a common courtyard, access area, or off-street parking area, the businesses therein shall be limited to one freestanding sign which shall be no greater than 32 square feet in surface area per side of sign up to a maximum of 64 square feet of aggregate surface area for the entire sign. In addition, each establishment located within the development shall be permitted one nameplate sign not to exceed four square feet in surface area per side of sign up to a maximum of eight square feet to aggregate surface area for the entire sign to be attached to the freestanding identification sign for the development as a whole.

(i) *Window sign.* Window signs or advertising, including stained glass lettering and logos, shall not cover more than 25 percent of the total window area.

(j) *Directory sign.* A directory sign may be authorized by the Business Committee at any entrance to the Cherokee Indian Reservation and at any intersection of state-maintained highways. All directory signs are subject to the design approval of the Business Committee.

(k) *Chief's sign.* Licensed Indian Chiefs may display one sign no larger than 16 square feet per side. Such signs may be portable, freestanding or permanently fixed to tepees. If such sign is attached to a building it shall be considered a wall sign and counted as part of the total sign area permitted under subsection (a) of this section. Chief signs shall not be placed where they may block an entrance to any business establishment or impede pedestrian or vehicular traffic on sidewalks or streets.

(l) *Off-premises directional sign.* Freestanding signs which contain or list names and locations of more than one business, activity or office shall be permitted at intersections identified and approved by the Planning Office. A style and construction standard shall be established by the Business Committee. The Planning Office shall be responsible for the erection of such signs and the approval of each business or activity listed on each such sign. Each business or activity advertising on such signs shall be charged an annual maintenance fee which shall be sufficient to amortize the cost of construction over a



three-year period, together with an amount sufficient to maintain such signs.

(m) *Special attraction sign.* Each special attraction operating on the Cherokee Indian Reservation shall be permitted one special attraction sign located off the premises of the attraction and one special attraction sign on the premises. The design, location and size shall be subject to the approval of the Business Committee.

#### **Sec. 136-19. Residential signs.**

(a) Each home business shall be allowed one nameplate sign for purposes of identification. Such sign shall not exceed four square feet of total surface area.

(b) Each subdivision, unified housing development, or mobile home park, shall be allowed one freestanding sign per entrance. Such sign shall be no larger than 12 square feet of surface area per side of sign up to a maximum of 24 square feet of aggregate surface area per sign. Such signs shall not exceed five feet in height.

#### **Sec. 136-20. Temporary signs.**

(a) Signs used prior to and during construction to identify a contractor or developer shall be considered temporary signs and shall meet the following requirements:

(1) Each contractor shall have no more than one sign per location which shall be removed upon completion of the project;

(2) Construction signs shall not be placed on trees, rocks or other natural objects;

(3) Construction signs shall be either attached to the building or affixed to a secure temporary post; and

(4) Construction signs shall be no greater than 12 square feet per side of sign up to a maximum of 24 square feet of aggregate surface area for the entire sign.

(b) All other temporary signs shall be approved by the Tribal Business Committee, and shall be of a size and height that is consistent with the letter and spirit of this article.

#### **Sec. 136-21. Sign construction and illumination.**

(a) All signs except window signs shall be constructed of materials that will not rapidly

deteriorate, fade, fall apart, or in any way become a threat to the public's health or safety.

(b) All signs shall be securely fastened, anchored, and generally placed to withstand adverse weather conditions.

(c) Signs may not use reflecting backgrounds, but may use reflecting letters.

(d) No freestanding or temporary sign shall be constructed or placed closer than six feet to any street or right-of-way and such sign shall not be located in such a manner as to constitute a traffic or safety hazard.

(e) Signs shall be limited to three colors not including logos, provided none of the colors or materials are fluorescent, earth tones are preferred.

(f) Illuminated signs shall be by an indirect white or amber light, shall be shielded and directed solely at the sign. Internally lighted signs shall be by white or amber light.

#### **Sec. 136-22. Sign maintenance.**

(a) The owner of each sign shall be responsible for maintaining the area around the sign, including cutting of weeds and grass, and the removal of trash and litter.

(b) In the event one sign is placed over another, the original shall be removed or completely covered so that the original sign cannot be seen.

(c) All signs, supports, braces, poles, wires, and anchors shall be kept in good repair. They shall be maintained in clean and safe condition, free from deterioration, missing parts, and peeling paint. Any sign not in accordance with these standards shall be deemed a nuisance and shall be subject to the procedures for nonconforming signs set forth in this article.

(d) All signs shall at all times comply with all applicable electrical safety standards which the Tribe shall have in effect.

#### **Sec. 136-23. Sign permit required.**

(a) All signs placed within the Qualla Boundary, except those listed in subsection (b) of this section, shall require a permit issued by the Business Committee. A fee shall be required for each sign placed after the effective date of this article as follows:

<i>Type</i>	<i>Fee</i>
Freestanding commercial or industrial sign	\$25.00
All other commercial or industrial sign	10.00
Residential nameplate sign	10.00
Residential subdivision sign	10.00
Temporary sign	10.00
Political sign	10.00/candidate

(b) A permit shall not be required for the following types of signs, provided they meet all the requirements of this article:

- (1) Private directional or safety sign;
- (2) Temporary construction sign;
- (3) Window sign;
- (4) Municipal, school, recreation and civic club sponsored signs, schedule of events, rules and regulations, and school and park signs that do not exceed three square feet of aggregate surface area per sign;
- (5) Restaurant menu sign;
- (6) Noncommercial sign.

(c) A permit issued for a temporary sign shall describe the locations of the sign (street, setback, etc.), and the period for which the permit is valid. In no case shall the permit be valid for more than 60 days.

(d) All signs that are erected or in place prior to the adoption of this article or any amendments thereto require a permit or statement of noncompliance. Such statements or permits shall be issued by the Business Committee within 180 days after January 1, 2013 or subsequent amendments hereto for which no permit fee shall be collected. In the event the Business Committee fails to issue a permit or statement of noncompliance within the 180-day period, the sign owner shall assume that the sign is in compliance with all provisions of this article and that the sign shall be permitted to stand. The sign owner may request that the Business Committee issue a permit stating such.

(e) Sign permit applications that are denied shall include a list of all reasons for such findings.

(f) All signs placed after the adoption of this article without permit approval shall be immediately removed if not found to be in compliance with the provisions of this article. If such sign is in full compliance, an after-the-fact permit shall be issued, and all specified fees paid.

**Sec. 136-24. Nonconforming signs.**

(a) All nonconforming signs shall be made to conform with this article or shall be removed within the time specified herein.

(b) The period for conformation or removal shall begin to run on the date when the sign becomes nonconforming. During this period, nonconforming signs may be retained, must be maintained in good condition, but shall not be:

(1) Changed to another nonconforming sign;

(2) Structurally altered as to prolong the life of the sign;

(3) Expanded;

(4) Reestablished after discontinuance for 90 days; or

(5) Reestablished after damage or destruction if estimated expense of reconstruction exceeds 50 percent of the appraisal replacement value.

(c) If more than one sign permitted is or becomes nonconforming, the original cost of the street signs so displayed shall be aggregated for purposes of determining the applicable amortization period.

(d) A sign is or becomes nonconforming if it does not conform with this article on either of the following dates:

(1) The date of original enactment; or

(2) Any date on which this article is amended.

(e) Signs found to be nonconforming with this article, including preexisting nonconforming signs, shall be issued a statement of noncompliance, listing all reasons for such finding.

(f) All signs issued a statement of noncompliance under this article shall be removed, changed or altered to conform with this article within 30 days.

(g) Failure to remove, change or alter a nonconforming sign within the period specified by this article shall result in the removal of such sign by the Tribe at the direction of the Business Committee and at the expense of the owner of said sign.

(h) If the owner or lessee of a nonconforming sign that has been removed by the Tribe fails to pay for the costs of removal within 30 days of the billing date for such action, a lien shall be placed against the property of the owner or lessee, and the Business Committee shall certify the same to the Tribal Attorney for collection. Owners or lessees who fail to pay for such removal costs shall be subject to revocation of the Business License.. The Business Committee may institute a legal collection proceeding to recover the cost of removal by the Tribe.

#### **Sec. 136-25. Obsolete or abandoned signs.**

(a) Signs which advertise or pertain to a development complex, business, product, service, commodity, or a purpose which no longer exists or that has not been in use for 30 days or more shall be deemed to be an obsolete or abandoned sign. Signs which are associated with seasonal business shall not be considered obsolete or abandoned, provided there is clear intent to continue the business in the upcoming season.

(b) Obsolete or abandoned signs are prohibited and shall be removed by the owner within 30 days of termination of the business.

(c) If the owner of the abandoned or obsolete sign fails to remove such sign, it shall be removed by the Tribe at the expense of the owner. If the owner fails to pay the removal costs within 30 days, the Tribe shall collect costs under the procedure described in section 136-24(h).

#### **Sec. 136-26. Administration and Variance**

The Planning Office and its successor offices shall serve as the primary staff for the administration of this article, at the direction of the Business Committee. Staff duties shall include, but not be limited to, review of signs, the enforcement of rules and decisions of the Business Committee, for offering recommendations to assist in regulatory efforts, and referring sign matters not delegated to the staff to the Business Committee for its consideration. The extent practicable, the Business Committee and the Planning Office shall administer this article and the regulation of signs in the same manner as the site review process expressed in Cherokee Code Section 47-2

The Business Committee is authorized to adopt standards, rules and procedures for the regulation of commercial signs and advertisements so long as such measures are consistent with this article and are not less restrictive than this article.

Variances shall be submitted to the Planning Office for review and forwarded to Business Committee for approval or denial.

### **136-27. - Enforcement.**

- (a) Violations of Articles I and II of this Chapter shall be dealt with as follows:
- (1) The Planning Office shall give notice of a violation to the owner of the billboard or sign, the advertiser thereon, or the person or entity in possession of the real property on which the billboard or sign sits, whoever is determined by the Tribe to be party responsible for the billboard or sign.
  - (2) If the violation is not cured within ten days following notice being given to the responsible party, the Planning Office shall notify the Business Committee of the failure to cure.
  - (3) The Business Committee shall give the responsible party notice to attend a meeting of the Business Committee to determine why the violation has not been cured.
  - (4) Following the meeting with the Committee, regardless of whether the violator appears or does not appear, the Committee shall take whatever action it deems appropriate including, but not limited to, injunctive or declaratory relief or civil or equitable remedies.
- (b) If the Business Committee, after notice and holding its meeting, finds that there has been a violation of this article, the Committee may take action regarding the sign and may suspend or revoke the violator's Tribal business license.
- (c) Additionally, if the Committee finds that there is a violation of this article, the Tribe may institute suit in the Cherokee Tribal Court seeking relief.
- (d) Any person or firm found by the Committee to have violated this article shall be subject to a civil fine not to exceed \$5,000.00, to be imposed by the Cherokee Tribal Court.

### **Sec. 136-28 - Appeal.**

- (a) If a person is aggrieved by the action of the Planning Office, the person aggrieved may appeal the decision to the Business Committee. All appeals shall be filed with the Chairman of the Business Committee no later than 30 days after the decision of the

Planning Office. An appeal filed after the 30-day time limit shall be deemed untimely and shall not be heard.

(b) A decision of the Business Committee is final and may not be further appealed.

**Sec. 136-29. Miscellaneous provisions.**

Any sign which is not clearly covered by the provisions of this article shall, for the purposes of this article, be considered a commercial sign and shall comply with all of the provisions concerning commercial signs.

**Sec. 136-30. Severability.**

If any section of this article is held to be invalid or unenforceable, all other sections shall continue in full force and effect.

**ARTICLE III. STREETSCAPES AND DISPLAY OF MERCHANDISE**

**Sec. 136-31. Display of Merchandise.**

Merchants and businesses within the Business District of the Qualla boundary shall display merchandise for sale on the outside of their business premises only if:

(1) Items that are permitted:

- a. A Native American product, art or craft; or
- b. Art, craft or product indigenous to the Appalachian region; or
- c. Is an art, craft or product made by an artisan or craftsman on the premises where the art, craft, or product is displayed; and
- d. The merchant, artisan or craftsman has been issued a business license; and
- e. The display area is kept in a clean neat and safe condition and appearance for pedestrians and the motoring public; and
- f. Is respectful of traditional Cherokee culture; and

(2) Items that are not permitted:

- a. Anything motorized (4 Wheelers, Scooters, Bikes, etc)
- b. Airbrushing
- c. Cardboard boxes or plastic tubs of items
- d. T-shirts and all other articles of clothing
- e. Blankets, Rugs & Towels
- f. Shoes, Hats, Belts, Purses
- g. Furniture, Lamps & Yard Statues
- h. Post Cards, Pots & Bandanas
- i. Swimwear, Tubes & Umbrellas
- j. Bull whips, Cow Horns & Skulls
- k. Piggy Banks, Dolls & Blow-up characters
- l. Wind Kites & Wind Chimes
- m. Flags
- n. Photographs

(3) Exempt items are as follows:

- a. Coke Machines
- b. Arcade Games
- c. Rides
- d. Gumball Machines
- e. Firewood
- f. Brochure Racks

(4) Merchandise on the sidewalks of **Non-Tourist Based Specialty Shops** will be determined on a case by case basis. Non-tourist based specialty shops may include – Hardware Stores, Pool Equipment Stores, Tubing Centers, etc.

BE IT FURTHER ORDAINED that this ordinance shall be effective upon ratification by the Principal Chief, and all prior ordinances and resolutions that are inconsistent with this ordinance are rescinded.

*Submitted by the Planning Office*