

Ordinance \_\_\_\_\_(2016)

- WHEREAS, cannabis is medically permissible in twenty-five states and the District of Columbia; and,
- WHEREAS, cannabis is recreationally permissible in four states and the District of Columbia; and,
- WHEREAS, under Cherokee Code (C.C.) Section 14-95.5 (c), any adult in possession of more than one-half ounce (avoirdupois) marijuana is subject to a Class C penalty; and,
- WHEREAS, under C.C. Section 14-95(d), any adult in possession of one-half an ounce (avoirdupois) or less of marijuana is subject to a Class D penalty; and,
- WHEREAS, under C.C. 14-95.21(c), any person subject to a Class C penalty, "...shall be imprisoned for not less than 30 days nor more than one year and pay a fine of not less than \$1,000.00, nor more than \$5,000.00..."; and,
- WHEREAS, under C.C. 14-95.21(d), any person subject to a Class D penalty, "...shall be imprisoned for not more than three months and pay a fine of not more than \$5,000.00..."; and,
- WHEREAS, under C.C. 14-96.1(b), any adult person convicted in violating any provision of C.C. Chapter 14 involving the use, possession, sale, distribution or manufacture of alcohol or a controlled substance, shall be imposed with mandatory additional fine of \$1,000.00; and,
- WHEREAS, according to the FY 2015 Marshal Service Annual Report of the Cherokee Indian Police Department, only 27 grams of processed marijuana was seized at a value of \$365.00 during FY 2015; and,
- WHEREAS, Tribal Council passed Resolution 241 (2016) authorizing the EBCI Attorney General's Office to begin drafting an ordinance establishing a medical cannabis law; and,

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 at Cherokee Code Chapter 27, Sec 27-4(a), nullifying Schedule VI and associated civil penalty fines from Sec. 27-4(a), as described as follows:

**Sec. 27-4. Penalties.**

**(a) Pursuant to this Chapter, any person arrested for violation of the Cherokee Controlled Substances Act resulting in the seizure by the CIPD of any controlled substance is subject to the penalties outlined below:**

<b><u>SCHEDULE</u></b>	<b><u>EXAMPLE OF DRUGS COVERED</u></b>	<b><u>CIVIL PENALTY FINE</u></b>
<b><u>I</u></b>	<ul style="list-style-type: none"> <li>• <u>Heroin, Ecstasy, GHB, Opiates, LSD, other Hallucinogens, and others.</u></li> <li>• <u>See N.C.G.S. § 90-89 for full list</u></li> </ul>	<b><u>\$ 500</u></b>
<b><u>II</u></b>	<ul style="list-style-type: none"> <li>• <u>Methamphetamine, Morphine, PCP, Cocaine, Methadone, Demerol, Opium, Codeine, Hydrocodone, and others.</u></li> <li>• <u>See N.C.G.S. § 90-90 for full list</u></li> </ul>	<b><u>\$ 400</u></b>
<b><u>III</u></b>	<ul style="list-style-type: none"> <li>• <u>Ketamine, anabolic steroids, and others.</u></li> <li>• <u>See N.C.G.S. § 90-91 for full list</u></li> </ul>	<b><u>\$ 300</u></b>
<b><u>IV</u></b>	<ul style="list-style-type: none"> <li>• <u>Benzodiazepines, phenobarbital, Valium, Xanax, Clonazepam, and others.</u></li> <li>• <u>See N.C.G.S. § 90-92 for full list</u></li> </ul>	<b><u>\$ 200</u></b>
<b><u>V</u></b>	<ul style="list-style-type: none"> <li>• <u>Over the counter cough medicines with codeine, Pyrovalerone and others.</u></li> <li>• <u>See N.C.G.S. § 90-93 for full list</u></li> </ul>	<b><u>\$ 100</u></b>
<del><b><u>VI</u></b></del>	<ul style="list-style-type: none"> <li>• <del><u>Marijuana, Hashish,</u></del></li> <li>• <del><u>Tetrahydrocannabinols, etc.</u></del></li> <li>• <del><u>See N.C.G.S. § 90-94 for full list</u></del></li> </ul>	<del><b><u>\$ 50</u></b></del>

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 Joseph Owle, Wolfetown Community, Aaron Hogner, Wolfetown Community, and Yona Wade, Painttown Community.*