

# TABLED

Cherokee Council House  
Cherokee, North Carolina

SEP 03 2020

Date

ORDINANCE NO. 255 (2020)

**WHEREAS,** law enforcement agencies train and work with police dogs in K9 units to promote the welfare of the community and especially to improve officers' ability to perform search and seizure of narcotics; and

**WHEREAS,** law enforcement animals are put in danger during the course of duty and they should be protected from harm; and

**WHEREAS,** anyone who harms or kills a law enforcement animal should be punished and required to pay restitution to the law enforcement agency affected by such harm; and

**NOW THEREFORE BE IT ORDAINED** by the Tribal Council of the Eastern Band of Cherokee Indians in Council assembled, at which a quorum is present, that the Cherokee Code Chapter 14 shall be amended by adding a new section, identified as Sec. 14-40.67, to read as follows in EXHIBIT A.

**BE IT FURTHER ORDAINED** the provisions of the Ordinance that amend or adopt new sections of the Cherokee Code shall be codified by the Department of Justice.

**BE IT FINALLY ORDAINED** that this ordinance shall be effective upon ratification by the Principal Chief and any prior ordinance or part thereof that conflicts with this ordinance is rescinded.

*Submitted by: The Tribal Alcohol Law Enforcement Division.*

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Cherokee Code

Chapter 14-40.67. Killing, assaulting, or harming a law enforcement agency animal

(a) The following definitions apply in this section:

(1) Law enforcement agency animal. An animal that is trained and may be used to assist a law enforcement officer in the performance of the officer's official duties.

(2) Harm. Any injury, illness, or other physiological impairment; or any behavioral impairment that impedes or interferes with duties performed by a law enforcement agency animal.

(3) Serious harm. Harm that does any of the following:

a. Creates a substantial risk of death.

b. Causes maiming or causes substantial loss or impairment of bodily function.

c. Causes acute pain of a duration that results in substantial suffering.

d. Requires retraining of the law enforcement agency animal.

e. Requires retirement of the law enforcement agency animal from performing duties.

(b) Any person who knows or has reason to know that an animal is a law enforcement agency animal and who willfully kills the animal is guilty of the offense of killing a law enforcement agency animal. Such offense is punishable by a fine not to exceed \$15,000, by a term of imprisonment not to exceed three years, or any combination of them.

(c) Any person who knows or has reason to know that an animal is a law enforcement agency animal and who willfully causes or attempts to cause serious harm to the animal shall be guilty of the offense of causing serious harm to a law enforcement agency animal. Such offense is punishable by a fine not to exceed \$10,000, by a term of imprisonment not to exceed two years, or any combination of them.

(d) Unless the conduct is covered under some other provision of law providing greater punishment, any person who knows or has reason to know that an animal is a law enforcement agency animal and who willfully causes or attempts to cause harm to the animal shall be guilty of the offense of causing harm to a law enforcement agency

1 animal. Such offense is punishable by a fine not to exceed \$5,000, by a term of  
2 imprisonment not to exceed 1 year, or any combination of them.

3 (e) Unless the conduct is covered under some other provision of law providing greater  
4 punishment, any person who knows or has reason to know that an animal is a law  
5 enforcement agency animal and who willfully taunts, teases, harasses, delays, obstructs,  
6 or attempts to delay or obstruct the animal in the performance of its duty as a law  
7 enforcement agency animal is guilty of the offense of obstructing a law enforcement  
8 agency animal. Such offense is punishable by a fine not to exceed \$2,500, by a term of  
9 imprisonment not to exceed six months, or any combination of them.

10 (f) A defendant convicted of a violation of this section shall be ordered to make restitution to  
11 the law enforcement agency who owns or is responsible for the care of the law  
12 enforcement agency animal for any of the following as appropriate:

13 (1) Veterinary, medical care, and boarding expenses for the law enforcement agency  
14 animal.

15 (2) Replacement and training or retraining expenses for the law enforcement agency  
16 animal.

17 (3) Expenses incurred to provide temporary mobility services to the person with a  
18 disability.

19 (4) The salary of the law enforcement agency animal handler as a result of the lost  
20 services to the agency during the time the handler is with the law enforcement  
21 agency animal receiving training or retraining.

22 (5) Any other expense reasonably incurred as a result of the offense.

23 (g) Self-defense is an affirmative defense to a violation of this section.

24 (h) Nothing in this section shall affect any civil remedies available for violation of this  
25 section.