

TABLED

Cherokee Council House
Cherokee, North Carolina

MAR 11 2021

Date

ORDINANCE NO. 390 (2020)

WHEREAS, the Charter and Governing Document authorizes and empowers the Eastern Band of Cherokee Indians (EBCI) Tribal Council to adopt laws and regulations for the general government of the Tribe. Charter and Governing Document, sect. 23 (Sept. 5, 1995) *see also* C.C. §117-10.

WHEREAS, The Eastern Band of Cherokee Indians (EBCI) Tribal Council shall authorize all tribal monies being paid out. Charter and Governing Document, sec. 20 (Sept. 5, 1995).

WHEREAS, the EBCI Tribal Council constitutes the Eastern Band of Cherokee Indian's Legislative Branch of government. C.C. §117-10.

WHEREAS, the EBCI established the Tribal Alcoholic Beverage Control Commission (TABCC) on September 8, 2011. C.C. Ch. 18B.

WHEREAS, the TABCC is authorized to impose the same tax or mark up as the State of North Carolina "and to utilize such tax or markup in operations of TABCC and profits after operation *shall be distributed as determined by Tribal Council.*" C.C. §18B-804.

WHEREAS, the Tribal Council determined that ten percent (10%) of profits after operation (total revenue after costs) shall be used to fund the Nigada Diniyohli Fund. Eastern Band of Cherokee Indians Tribal Council Resolution No. XXX (2021).

NOW, THEREFORE, BE IT ORDAINED by the Eastern Band of Cherokee Indians in Council assembled, at which a quorum is present that the Eastern Band of Cherokee Indians Tribal Council amends the Cherokee Code Ch. 18B-203, as follows in EXHIBIT A.

BE IT FURTHER ORDAINED the provisions of the Ordinance which amend or adopt new sections of the Cherokee Code shall be codified by the Department of Justice. The Department of Justice shall incorporate such amended provisions in the next codification of the Cherokee Code.

BE IT STILL FURTHER ORDAINED should any provision of this Ordinance be determined invalid by the Cherokee Supreme Court, or the Cherokee Court without appeal to the Cherokee Supreme Court, or any other court of competent jurisdiction, those

portions of this Ordinance which are not determined invalid shall remain the law of the Eastern Band of Cherokee Indians

BE IT FINALLY ORDAINED that this ordinance shall become effective when ratified. Charter and Governing Document, sect. 12 (Oct. 8, 1986).

Submitted by: Chelsea Saunooke, Wolfstown/Big Y Representative

Cherokee Code

Chapter 18B – REGULATION OF ALCOHOLIC BEVERAGES

ARTICLE 2. – ADMINISTRATION

Sec. 18B-203. – Powers and duties of the Commission.

- (a) *Confidentiality.* The Commission shall have the authority to:
- (1) Administer the Tribal ABC laws;
 - (2) Provide for enforcement of the Tribal ABC laws, in conjunction with the ALE Division;
 - (3) Issue ABC permits as allowed under this Ordinance;
 - (4) Adopt rules and procedures for the issuance and enforcement of ABC permits;
 - (5) Administer an annual budget with said budget to be approved annually by the Tribal Council;
 - (6) Act as the distributor of all alcohol on Tribal trust lands. Spirituous liquor and fortified wine shall be purchased by TABCC directly from North Carolina Warehouse, or as needed from a local ABC Store. Malt beverages and unfortified wine shall be purchased from North Carolina authorized distributors and may be redistributed from a TABCC warehouse or authorized to be delivered directly to TABCC authorized permittee; and
 - (7) Issue any retail ABC license or permit issued by the North Carolina Alcoholic Beverage Control Commission, including a temporary license or permit. Negotiate and enter into contract with North Carolina ABC Commission for purchase of spirituous liquor and fortified wine; and
 - (8) Adopt fiscal control rules concerning the borrowing of money, maintenance of working capital, investments, appointment of a financial officer, the daily deposit of funds and any other rules necessary to assure the proper accountability of public funds.

1 (b) *Implied powers.* The Commission shall have all other powers which may be reasonably
2 implied from the granting of the express powers stated in subsection (a), or which may be
3 incidental to, or convenient for, performing the duties given to the Commission.

4 (c) *Duties.* The Commission shall have the duty to provide ten percent (10%) of their total
5 revenue after cost to the Nigada Digiyohli Fund.

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