

TABLED

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

Date: JUL 08 2021

ORDINANCE NO. 541 (2021)

An ordinance amending C.C. § 143-6(k) regarding native stone and native stone masons.

WHEREAS, C.C. § 143-6(k) requires all commercial construction on Tribal owned lands, for which the Tribe is a contracting party and which includes stone work, to use native stone and native stone masons; and

WHEREAS, the requirement does not provide an alternative if adequate supplies of native stone or adequate supplies of labor by native stone masons cannot be obtained; and

WHEREAS, the lack of a clearly stated alternative ties the hands of the building inspector who has the responsibility to enforce the subsection; of the contractor who is trying to comply with Tribal law and the terms of the contract; and of the contracting Tribal entity that may be faced with unexpected costs and delays; and

WHEREAS, all parties would benefit if C.C. § 143-6(k) were amended to provide a reasonable alternative, as presented in this ordinance.

NOW THEREFORE BE IT ORDAINED by the Eastern Band of Cherokee Indians in Tribal Council assembled, at which a quorum is present, that C.C. § 143-6(k) shall be amended to read as follows:

Sec. 143-6. Building code.

[Editor's Note: subsections (a) – (j) are remain unchanged.]

(k) Native stone and stone masons.

(1) As part of the building code adopted in this section, all commercial construction on Tribal owned lands for which the Tribe is a contracting party and which includes stone work, shall be required to use native stone and native stone masons that is supplied from Tribal owned lands and approved for the project, on the contract that is being let for bid, provided that:

a. Adequate supplies of native stone, and an adequate number of qualified native stone masons, can be supplied to meet scheduling requirements of the project in question; and

1 b. The native stone is competitive in kind, quality and price when
2 compared to stone from sources off of the Tribal owned lands; and

3 (2) Persons or businesses providing or delivering stone to projects described
4 in this subsection shall provide documentation to the building inspector as to
5 whether the stone provided is native to and supplied from Tribal owned lands.

6 (3) The Tribe and contractors shall make all reasonable efforts to include the
7 building inspector in the early stages of project design or construction to help
8 ensure that native stone is used.

9 (4) In this subsection, "Tribe" means the government of the Eastern Band of
10 Cherokee Indians including, but not limited to, all of its divisions, programs,
11 enterprises and business entities. The Tribal building inspector is responsible for
12 enforcing this requirement.

13 (5) In this subsection, "Native Stone" means stone that is located on Tribal
14 owned lands and "Native Stone Mason(s)" mean members of the Eastern Band of
15 Cherokee Indians that are certified according to Chapter 92 of the Cherokee Code
16 and/or licensed with the Tribe.

17 (6) Stone masons certified under the Tribal Business Preference law, chapter
18 92, Cherokee Code, shall be given the first option to bid on and contract for jobs
19 described in subsection (1), pursuant to chapter 92, Cherokee Code.

20 (7) If adequate supplies of native stone cannot be obtained to satisfy quantity,
21 quality and scheduling requirements of the project in question, then the contractor
22 may use non-native supplies. If adequate numbers of qualified native stone
23 masons cannot be obtained to satisfy quantity, quality and scheduling
24 requirements of the project in question, then the contractor may use non-native
25 stone masons.

26
27 BE IT FINALLY ORDAINED that all ordinances that are inconsistent with this ordinance are
28 rescinded, and that this ordinance shall become effective when ratified by the
29 Principal Chief.

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31 *Submitted by Michael W. McConnell, Attorney General*