

AMENDED

PASSED

**Cherokee Council House
Cherokee, North Carolina**

APR 24 2020

Date

Resolution No. 179 (2020)

WHEREAS, the Eastern Band of Cherokee Indians has the sovereign authority to exclude persons from lands of the Eastern Band in order to protect the integrity, law and order on Tribal lands and to protect the welfare of members of the Tribe; and

WHEREAS, the exclusion power is reserved to the Tribal Council, and the Council has codified its authority to exclude individuals in Cherokee Code Chapter 2; and

WHEREAS, Cherokee Code Chapter 2 was most recently amended by Ordinance No. 124 (2020) (with floor amendment); and

WHEREAS, the Tribe is currently under a State of Emergency declared by Principal Chief Richard G. Sneed in March, 2020, in response to the Coronavirus pandemic. In the course of the State of Emergency, Principal Chief Sneed has issued several orders restricting movement of persons and activities on Tribal lands, imposed a curfew, and has closed Tribal borders to all except Tribal members and their families residing on Tribal trust lands and Tribal employees; and

WHEREAS, the law of the Tribe regarding incarcerating non-Indians (including foreign nationals) in the Cherokee Detention Center is under increased scrutiny by the BIA, which has criticized the decisions of the Cherokee Court, which has held that the Tribe may incarcerate, pending trial, foreign nationals who violate Tribal law; and

WHEREAS, Cherokee Code Sec. 7-2(c) states that The Tribal Council shall have the power to exclude other persons from Cherokee trust lands when necessary to protect the integrity and law and order on Tribal lands and territory or the welfare of its members; and

WHEREAS, Arnold J. Calderon Mazariegos (date of birth 07/16/1992) resides on Tribal trust land at 375 Wolfetown Road in Cherokee, North Carolina; Mr. Calderon is not an enrolled member of the EBCI; and

WHEREAS, on April 26, 2020, Mr. Mazariegos was observed driving a vehicle on Highway 19 in Cherokee, weaving, crossing the centerline and speeding. After stopping him and performing the necessary roadside tests, the officer arrested Mr. Mazariegos for driving under the influence (DUI); and

WHEREAS, Mr. Mazariegos was given a breathalyzer test and blew a .22, nearly three times the legal limit of 0.08; and

WHEREAS, Mr. Mazariegos has expressed opposition to the jurisdiction of the Cherokee police and Cherokee Court to charge him and detain him; and

WHEREAS, Mr. Mazariegos presents a threat to the Tribe's law and order and to the safety of enrolled members in Cherokee; and

WHEREAS, the documents provided by the Cherokee Indian Police Department regarding Mr. Mazariegos' arrest and detention are attached to this resolution and incorporated herein; and

WHEREAS, Cherokee Code Sec. 2-9 restricts the authority of a judicial official and CPD officer to issue and obtain a Writ of Emergency Temporary Exclusion, however, that section does not restrict the authority of Tribal Council to exercise its inherent and statutory authority to exclude a non-member if they present a threat to the safety and welfare of Tribal members; and

WHEREAS, Mr. Mazariegos should be excluded from Tribal trust lands for the period of time expressed by Tribal Council below, with notice of his right to be heard by Tribal Council at day and time to be determined by Tribal Council.

NOW THEREFORE BE IT RESOLVED by the Tribal Council of the Eastern Band of Cherokee Indians in Council assembled at which a quorum is present that Tribal Council banishes and excludes Arnold J. Calderon Mazariegos (date of birth 07/16/1992), from trust lands of the Eastern Band of Cherokee Indians. This banishment shall be for the following period: _____.

BE IT FINALLY RESOLVED that this resolution shall become effective upon ratification by the Principal Chief and that any resolution in conflict is hereby rescinded.

Submitted by Richard G. Sneed, Principal Chief

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA
APRIL 24, 2020

AMENDMENT TO RES. 179 (2020) –

In the 6th, “WHEREAS,” strike “sect. 7-2 (c)” and insert, “sect. 2-1 (b)

In the, “NOW THEREFORE BE IT RESOLVED,” strike, “for the following period,” and insert, the, “Permanent” into the blank

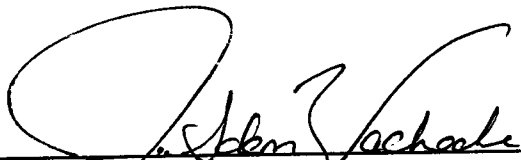
The attached Resolution/Ordinance No. 179 dated APRIL 24, 2020 was:

PASSED (X)

KILLED ()

and ratified in open Council on APRIL 24, 2020 by 76 voting for the act and 0 members voting against it as follows:

VOTE	FOR	AGAINST	ABSTAIN	ABSENT
Richard French	X			
Perry Shell	X			
Boyd Owle	X			
Bucky Brown	X			
Tom Wahneetah	X			
David Wolfe	X			
Adam Wachacha	X			
Bo Crowe				X
Chelsea Saunooke				X
Albert Rose	X			
Dike Sneed	X			
Tommye Saunooke	X			
	76	0	0	24


 TRIBAL COUNCIL CHAIRMAN


 ENGLISH CLERK


 PRINCIPAL CHIEF

APPROVED (4) VETOED ()

VETO UPHeld () VETO DENIED ()

DATE: 4/29/2020

I hereby certify that the foregoing act of the Council was duly:

PASSED ()

KILLED ()

and ratified in open Council after the same has been interpreted by the Official Interpreter and has been fully and freely discussed.

 INTERPRETED ()

 OMITTED ()