

# TABLED

CHEROKEE COUNCIL HOUSE  
CHEROKEE, NORTH CAROLINA

Date: FEB 02 2023

## ORDINANCE NO. 504 (2023)

*An ordinance amending Section 47D-9 of the Cherokee Code to change HIP benefits from 12-year assignments to residential leases in exchange for having a HIP home constructed.*

WHEREAS, Section 47D-9 of the Cherokee Code governs the Home Improvement Program (HIP) and allows for qualifying Tribal members who are elders or disabled to assign their possessory holding to the Tribe in exchange for a house to be built on the property for a term of 12 years; and

WHEREAS, during the 12-year assignment the HIP house is considered a Tribal asset managed and maintained by the Cherokee Boy's Club, and if the qualifying Tribal member who initially assigned the property to the Tribe dies, then the property is temporarily reassigned by the HIP Committee to another qualifying Tribal member; and

WHEREAS, at the end of the 12-year assignment, the HIP home reverts to the Tribal member who assigned it to the Tribe, or to their estate if they have deceased; and

WHEREAS, because the homes are maintained by the Tribe, it has led to the Tribe investing a significant amount of money into homes that the Tribe will never see a return on, and has led to assignments being terminated early and reverting the home back to the Tribal member or their estate because it would cost more to repair the home than the Tribe would see in value by temporarily reassigning the home to another Tribal member; and

WHEREAS, in light of the increasing costs of constructing HIP homes and maintaining them, the HIP Committee voted to submit this ordinance at its regularly scheduled meeting on January 11, 2023, for consideration by Tribal Council; and

WHEREAS, the proposed ordinance change governing HIP would allow for qualifying Tribal members to transfer their possessory holding to the Tribe in exchange for a HIP home and be subject to a residential lease for least 15 years; and

WHEREAS, this change would also allow for the HIP homes to permanently remain as a Tribal asset and allow for it to serve the community for a longer period of time.

NOW THEREFORE BE IT ORDAINED by the Eastern Band of Cherokee Indians in Tribal Council assembled, at which a quorum is present, that § 47D-9 shall be amended to read as follows:

1 **Sec. 47D-9. Home improvement program.**

- 2 ~~(a) Tribal members selected to participate in the Program shall assign a house site of~~  
3 ~~approximately one-half acre if serviced by Tribal sewer, or one acre if not serviced by Tribal~~  
4 ~~sewer, to the Tribe. Participants shall thereafter be tenants of the Tribe.~~
- 5 ~~(b) All participants in the Home Improvement Program must sign an agreement setting forth the~~  
6 ~~consideration received by them in exchange for their assigning their possessory rights to said~~  
7 ~~house site together with any rights to transfer or convey the house site except with the~~  
8 ~~approval of the Tribe.~~
- 9 ~~(c) Participants must continuously occupy and live in the improved house. Participants may not~~  
10 ~~sell, rent, lease, transfer or convey the house or any part thereof. If participants vacate the~~  
11 ~~improved house, or purport to sell, rent, lease, transfer or convey the property, the Tribe shall~~  
12 ~~have the right to reassign the home and house site.~~
- 13 ~~(d) If a participant is residing in the improved house at the time of his death, the house site and~~  
14 ~~all improvements thereon shall remain the property of the Tribe for the remaining time of the~~  
15 ~~initial 12-year period under the Home Improvement Program agreement.~~
- 16 ~~(e) The above restrictions shall be binding upon the participants for 12 years following execution~~  
17 ~~of their agreement with the Tribe. If the participants continue to occupy the home at the end~~  
18 ~~of the 12-year period, such participants may then transfer or convey the house site and~~  
19 ~~improvements to another Tribal member.~~
- 20 ~~(f) The participant shall convey a right-of-way to the house site to the Tribe which shall be valid~~  
21 ~~for the duration of the restriction period.~~
- 22 ~~(g) All restrictions shall be binding for the 12 years immediately succeeding construction of the~~  
23 ~~home and shall run with the property.~~
- 24 ~~(h) It is prohibited to deliver housing benefits under this section to any person who has been~~  
25 ~~convicted of or plead guilty to a controlled substance violation, in any jurisdiction, within the~~  
26 ~~ten years preceding possession of a Home Improvement Program home.~~
- 27 ~~(i) The Home Improvement Program Committee shall have the power to enact Policies and~~  
28 ~~Procedures to carry out the intent of this section.~~
- 29
- 30 (a) For the purposes of this section, "HIP" means the Home Improvement Program.
- 31 (b) There shall be a HIP Committee administering HIP. HIP Committee shall consist of six Tribal  
32 Council members as assigned by the Tribal Council Chairman. One member shall be from each  
33 township.
- 34 (c) Upon approval of the HIP Committee, qualifying Tribal members that own a suitable house  
35 site may transfer their possessory holding to the Tribe in exchange for a house built on the  
36 possessory holding and becoming a tenant of the Tribe.
- 37 (d) The transfer of the possessory holding must first be approved by the Tribal Business  
38 Committee before the applicant may take part in HIP, and the applicant must execute a  
39 residential lease with the Tribe for the possessory holding. The residential lease shall be for a  
40 minimum term of 15 years.
- 41 (e) All applicants must enter into an agreement setting forth the consideration received by them in  
42 exchange for transferring their possessory holding to the Tribe.
- 43 (f) The applicant being served by HIP must continuously occupy and use as their primary  
44 residence the house built on the possessory holding transferred to the Tribe. Tenants shall not  
45 sell, rent, lease, transfer, or convey the possessory holding or any interest therein to a third  
46 party without the approval of the HIP Committee. If any tenant vacates the possessory holding;



1 purports to sell, rent, lease, transfer, or convey the possessory holding; or otherwise violates  
2 the lease, the Tribe may terminate the lease and retake the property.

3 (g) Lease termination must be approved by HIP Committee. Initiating an action for eviction must  
4 be approved by HIP Committee. Upon termination of the lease, the Tribe shall have the right  
5 to relet the home and possessory holding to another qualifying Tribal member.

6 (h) The lease shall be immediately terminated if a tenant is residing in the house at the time of  
7 their death, and the possessory holding and all improvements located thereon shall remain the  
8 property of the Tribe. No tenant may will, devise, or gift a possessory holding or leasehold  
9 interest subject to a HIP assignment in a last will and testament, and any attempt to do so shall  
10 be ineffective under this section.

11 (i) Qualifications for approval under HIP shall be set out in policies and procedures approved by  
12 the HIP Committee. HIP Committee shall have the power to enact policies and procedures to  
13 carry out the intent of this section.

14 (j) Qualifications for approval shall include that there be an enforceable right-of-way to the  
15 possessory holding recorded with the Tribal Realty Office.

16 (k) HIP shall conduct a criminal background check of all applicants and members of the household  
17 who are to live in the HIP home.

18 (1) No person who has been convicted of a felony drug crime shall be eligible for HIP  
19 benefits under this section.

20 (2) No person who has been convicted and registered as a sex offender shall be eligible  
21 for HIP benefits under this section.

22 (l) Qualified Tribal members who receive HIP benefits under this section shall not be precluded  
23 from receiving benefits from the Handicapped and Elderly Living Program, Senior Citizens  
24 Program, or Family Support Services.

25 (m) HIP is hereby authorized to promulgate administrative rules and regulations under Cherokee  
26 Code Chapter 150 in furtherance of this section.

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

31  
32 Submitted by the HIP Committee