

TABLED

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

MAR 02 2023

DATE

ORDINANCE NO. 530 (2023)

An ordinance amending C.C. Chapter 18B governing the Tribal Alcoholic Beverage Control Commission (TABCC) to amend requirements for budgeting and pricing.

WHEREAS, the Eastern Band of Cherokee Indians is a sovereign Indian tribal nation with the inherent right to make laws and govern its own affairs, and it has expressed its laws in the Cherokee Code; and

WHEREAS, in 2009, with the creation of Cherokee Code (C.C.) Chapter 18B, the Tribe established a uniform system of control and regulation of the sale, purchase, transportation, manufacture, consumption, and possession of alcoholic beverages on the Tribe's trust lands, and established the Tribal Alcoholic Beverage Control Commission (TABCC) to carry out the law; and

WHEREAS, the TABCC is tasked with enforcing the alcoholic beverage laws of the Tribe including the collection of revenue derived from permits, sales, and fees; and

WHEREAS, the Tribe's experience with C.C. Chapter 18B and the TABCC since 2009 has revealed the need to amend the chapter to apply the same uniform budgeting process to the TABCC as is required of all other Tribal government divisions, and to tailor pricing of certain alcoholic beverages so establishments on Tribal trust land can be competitive with establishments in neighboring, state-regulated jurisdictions; and

WHEREAS, the amendments expressed in this ordinance are presented to provide greater accountability for the revenue collected by TABCC on behalf of the Tribe.

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, C.C. § 18B-204 and § 18B-804, are hereby amended to read as follows:

Sec. 18B-204. - Allocation of revenues.

(a) There is established within the Tribal ABC Commission a fund to be known as the ABC Fund. This fund shall be used to maintain sufficient funding for the **annual** operational costs of the Commission, to include personnel, contracts, and equipment costs as approved by the Tribal Council through the annual budget process. The Tribal ABC Commission shall present its proposed budget to Tribal Council for approval in the same manner and on the same schedule as required of other divisions and programs of the Tribe.

- 1 (b) ~~Any funds in excess of \$5,000,000.00 shall be returned to the Tribe on an annual basis not~~
2 ~~later than September 30 of each fiscal year. Money obtained by the Tribal ABC Commission~~
3 ~~through the exercise of its authorities provided in C.C. Chapter 18B, that are in excess of the~~
4 ~~amount approved and budgeted by Tribal Council for the Tribal ABC Commission, shall be~~
5 ~~paid by the Commission to the Tribal treasury on a monthly basis, and deposited in the~~
6 ~~General Fund.~~
- 7 (c) That the excess funds shall be dedicated to Tribal Council to be allocated as part of the
8 Tribe's General Fund at the discretion of Tribal Council.

9

10 **Sec. 18B-804. - Alcoholic beverage pricing.**

11 The uniform pricing of spirits sold to permittees and the public shall be the same uniform
12 price as published by North Carolina in GS Section 18B-804. Where a tax or markup is
13 imposed by the North Carolina Alcoholic Beverage Control Commission or a local board,
14 both as defined in GS Section 18B-101, in this section, the TABCC is authorized to impose
15 the same tax or markup as a Tribal tax or markup, where appropriate, so that prices set by
16 the TABCC are competitive with the prices in counties that surround or touch Tribal trust
17 land. ~~and to utilize such tax or markup in operations of TABCC and profits after operation~~
18 shall be distributed as determined by Tribal Council.

19 BE IT FURTHER ORDAINED this ordinance shall become effective upon ratification by the
20 Principal Chief and shall be implemented immediately by the TABCC. Any prior
21 ordinance that is in conflict with this ordinance is rescinded to the extent
22 necessary to resolve the conflict.

23

24 *Submitted by: Richard G. Sneed, Principal Chief and T.W. Saunooke, Tribal Council*
25 *Representative.*