

TABLED

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA
AUG 03 2023
DATE

ORDINANCE NO. 692 (2023)

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10 **WHEREAS,** the Charter and Governing Document authorizes and empowers the Eastern Band
11 of Cherokee Indians (EBCI) Tribal Council to adopt laws and regulations for the
12 general government of the Tribe. Charter and Governing Document, sect. 23
13 (Sept. 5, 1995) see also CC § 177-10,
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15 **WHEREAS,** Tribal Council recently enacted, the Tribal Council passed, and the Principal
16 Chief subsequently ratified, Ordinance #619 (2018), 18 adding Chapter 55B to the
17 Cherokee Code that provides for the formation and regulation of 19 Limited
18 Liability Companies owned by the Eastern Band of Cherokee Indians.; and
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20 **WHEREAS,** Tribal Council enacted **Sec. 55B-5.2 – Allocation of Distributions,** Distributions
21 of cash or other assets of an LLC shall be allocated among the members as
22 provided in the operating agreement, or if the operating agreement does not so
23 provide, on the basis of the value of the contributions made by each member; and
24

25 **WHEREAS,** No distribution of corporate property among the members of the tribal members
26 shall be made, except out of the net profit of corporate enterprises after all
27 corporate debts then due have been paid. whereby, the profits and losses of an
28 LLC shall be allocated among the members in the manner provided in the
29 operating agreement; and
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31 **WHEREAS,** there is a need to create a Revenue Allocation Plan for the new entity Kituwah,
32 LLC,
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35 **NOW THEREFORE BE IT ORDAINED** by the Tribal Council of the Eastern Band of
36 Cherokee Indians in Tribal Council assembled at which a quorum is present that Tribal Council
37 amends Cherokee Code Chapter 55B 5.2 as listed in the attached EXHIBIT A,
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39 **BE IT FINALLY ORDAINED** that any resolution or ordinance in conflict are rescinded and
40 that this ordinance shall become effective upon ratification by the Principal Chief
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44 Submitted by: Mike Parker, Wolfstown & Big Y Tribal Council and Michael Stamper, Painttown
45 Tribal Council Representative
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EXHIBIT A

CHEROKEE CODE
CHAPTER 55 B – 5.2 ALLOCATION OF DISTRIBUTIONS

- 12 (a) Distributions of cash or other assets of an LLC shall be allocated among
13 the members as provided in the operating agreement, or if the operating
14 agreement does not so provide, on the basis of the value of the
15 contributions made by each member.
- 16 (b) No distribution of corporate property among the members of the tribal
17 members shall be made, except out of the net profit of corporate enterprises
18 after all corporate debts then due have been paid.
- 19 (c) Disribution shall be as follows: 50% of distributable net profit for Per
20 Capita/GenWell and 50% to Debt Service Sinking Fund.
- 21 (Ord. No. 552, Exh. B, 6-27-2019)