

TABLED

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

Date: AUG 01 2024

ORDINANCE NO.: 263 (2024)

An ordinance requiring motor vehicles to be registered if traveling on dirt roads located on Tribal Reserve Property

WHEREAS, Tribal Council has the authority to regulate the use of Off-Road Vehicles (ORV) and Utility Task Vehicles (UTV) on Tribal land pursuant to Cherokee Code Chapter 20; and

WHEREAS, the current Cherokee Code provision for registering an ORV and UTV makes an exception for motor vehicles registered under North Carolina General Statutes Chapter 20; and

WHEREAS, this exception creates a gap in the law allowing for registered UTVs to access tribal dirt roads and back roads located within Tribal Reserve property; and

WHEREAS, this exception gives registered motor vehicles easy access to restricted back road trails; and

WHEREAS, the exception makes it difficult for law enforcement to enforce the ORV and UTV registration requirements as they cannot patrol the back road trails efficiently; and

WHEREAS, limiting the exception would allow law enforcement the ability to effectively patrol dirt roads and discourage motor vehicles from using restricted back road trails designated only for stickered ORV's and UTV's.

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, that to eliminate a legal loophole thereby strengthening law enforcement efficiency purposes, the Cherokee Code is hereby amended as follows:

Sec. 20-106. Registration.

- (a) Every ORV operated on Tribal Reserve property, and every UTV operated on a UTV-Allowed Road as provided in Article III of this Chapter, must have affixed to it a valid, unexpired ORV sticker obtained from the Tribe's Natural Resources Enforcement (NRE) Office. The sticker indicates that the ORV has been registered with the Tribe for the calendar year in question. Registration shall be required within 180 days after the Tribe establishes and marks riding trails and shall be required for every UTV operated on a UTV-Allowed Road.

- 1 (b) Reserved.
- 2 (c) A motor vehicle registered with the state pursuant to N.C.G.S. Chapter 20, Article 3, Part
3 3 (§ 20-50 et seq.) for highway use is not required to have a Tribal ORV sticker or Tribal
4 UTV sticker. unless the motor vehicle is traveling on a dirt road or trail located within
5 Tribal Reserve property, where it would then be required to have an ORV or UTV sticker.
- 6 (d) Applications for ORV stickers and UTV stickers shall, at a minimum, include all of the
7 following information:
- 8 (1) The applicant's name, age, mailing address and phone number.
- 9 (2) The applicant's driver's license number if a licensed driver.
- 10 (3) The type, size and model of the vehicle to which the sticker will be affixed.
- 11 (4) Proof of tribal membership, family affiliation or employment as required to satisfy
12 this article.
- 13 (5) The date issued.
- 14 (6) A statement that the applicant will operate the vehicle in a safe and responsible
15 manner and according to Tribal law.
- 16 ~~(7)(6)~~ A statement that the applicant has obtained the appropriate education for operation
17 of the vehicle if such education is required by Tribal law.
- 18 ~~(8)(7)~~ A statement that the applicant consents to the jurisdiction of the Cherokee Court
19 for controversies related to or arising from the obtaining or use of the sticker or the
20 use of a motor vehicle on Tribal Reserve property or on UTV-Allowed roads.
- 21 ~~(9)(8)~~ The applicant's signature.
- 22 ~~(10)(9)~~ The sticker or registration number.
- 23 ~~(11)(10)~~ Applicant's spouse and children if they will operate the ORV or UTV being
24 registered.
- 25 (e) The Natural Resources Enforcement (NRE) Office shall keep a record of all registration
26 applications and of all registrations and stickers it issues.
- 27 (f) ORV stickers and UTV stickers are not transferable between vehicles or persons.
- 28 (g) The Natural Resources Enforcement (NRE) Office may refuse to issue an ORV sticker or
29 UTV sticker to an applicant who meets any of the following conditions:
- 30 (1) Is ineligible to operate an ORV on Tribal Reserve property or is ineligible to operate
31 a UTV on UTV-Allowed roads.
- 32 (2) Has not paid the required fee.
- 33 (3) Owes a debt to the Tribe, as confirmed by the Natural Resources Enforcement
34 (NRE) Office.
- 35 (4) Is proved to have violated any provision of this Article within two years
36 immediately preceding the date of application. Proof of violation must be in the
37 form of citation and if the citation was challenged in Tribal court, proof that the
38 citation was upheld, regardless of the form of judgment.
- 39 (5) For applicants for UTV stickers, the applicant has pled guilty or been convicted of
40 three or more moving violations in any jurisdiction within the two-year period
41 immediately preceding the date of application for the UTV sticker. For purposes of
42 this Chapter, a moving violation is a violation of a motor vehicle law by the driver
43 of a motor vehicle while it is in motion, and may be classified as infractions,
44 misdemeanors or felonies.
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1 **BE IT FINALLY ORDAINED**, that all resolutions and ordinances inconsistent with this
2 ordinance are rescinded, and this ordinance shall become effective upon ratification by the
3 Principal Chief.

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6 *Submitted by Alan B. Ensley, Vice Chief of the Eastern Band of Cherokee Indians*