

TABLED

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

Date: OCT 13 2025

ORDINANCE NO.: 5 (2025)

An ordinance to include voluntary manslaughter and involuntary manslaughter as crimes under the Cherokee Code

WHEREAS, Currently, the Cherokee Code relies on common law definitions of voluntary and involuntary manslaughter and does not express the prohibition via statute; and

WHEREAS, codifying the common law crimes of voluntary and involuntary manslaughter is an exercise of sovereignty; and

WHEREAS, in doing so expresses Tribal Council's intent protect the citizens of the Eastern Band of Cherokee Indians by expanding criminal prohibitions to allow for more robust prosecutions.

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, the Cherokee Code is hereby amended as follows:

Secs. 14-40.34—14-40.39 ~~39~~ 37. - Reserved.

Sec. 14-40.38 – Voluntary manslaughter

(a) It shall be unlawful to intentionally kill another human being without premeditation and deliberation. Voluntary manslaughter may be considered a lesser included of Homicide in the first degree.

(b) Voluntary manslaughter shall be punishable by a fine of not more than \$15,000.00, by a term of imprisonment not less than one year and not to exceed three years; exclusion for a period not less than ten years nor more than life; or any combination of them.

Sec. 14-40.39 – Involuntary manslaughter

(a) It shall be unlawful to kill another person without malice, without premeditation and deliberation, and without the intent to kill or inflict serious bodily injury. Involuntary manslaughter may be considered a lesser included offense to Homicide in the second degree

(b) Involuntary manslaughter shall be punishable by a fine of not more than \$15,000.00, by a term of imprisonment not less than 1 year and not to exceed three years; exclusion for a period not less than ten years nor more than life; or any combination of them.

1
2 **Sec. 14-40.40. - Homicide in the first degree.**

3 (a) It shall be unlawful to:

- 4
5 (1) Purposely, ~~knowingly, and wrongfully and with premeditation and deliberation~~, cause
6 the death of another human being; or
7
8 (2) Cause the death of another human being due to the commission or attempted
9 commission of a felony or offense punishable by exclusion.

10
11 (b) Homicide in the first degree shall be punishable by a fine of not more than \$15,000.00, by
12 a term of imprisonment not ~~to exceed~~ less than three years nor more than three years, none
13 of which may be suspended; exclusion for a period not less than ten years nor more than
14 life; or any combination of them.

15
16 **Sec. 14-40.41. - Homicide in the second degree.**

17
18 (a) It shall be unlawful to:

- 19
20 (1) Recklessly or negligently with disregard of the possible consequence of one's conduct
21 to cause the death of another human being; or
22
23 (2) Cause the death of another human being by operating a motor vehicle in a reckless,
24 negligent, or careless manner, or while under the influence of an alcoholic beverage,
25 intoxicating liquor, a controlled substance, or any drug, to a degree which renders the
26 person incapable of safely driving a vehicle.

27
28 a. A blood alcohol content in excess of .08 shall create a rebuttable
29 presumption that the person was under the influence of an alcoholic
30 beverage.

31
32 b. For purposes of this section, a motor vehicle is any self-propelled vehicle
33 and includes, but is not limited to, any automobile, truck, van, motorcycle,
34 train, engine, watercraft, aircraft, or snowmobile.

35
36 (b) Homicide in the second degree shall be punishable by a fine of not more than \$15,000.00,
37 by a term of imprisonment not less than 2 years and not to exceed three years, none of
38 which may be suspended; exclusion for a period of not less than one year nor more than
39 life; or any combination of them.

40
41
42 BE IT FINALLY ORDAINED, that all ordinances and resolutions inconsistent with this ordinance
43 are rescinded for crimes committed subsequent to ratification of this ordinance. This
44 ordinance shall become effective upon ratification by the Principal Chief.

45
46 *Submitted by the Office of the Attorney General.*