

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

Date: _____

ORDINANCE NO. _____ (2025)

An ordinance to amend C.C. Sections 105-4, 106-21, and 106-22 to clarify remedies for failure to pay Tribal levy and other fees, and to clarify when appeals may be made to Business Committee.

WHEREAS, Tribal law requires businesses operating in Cherokee to do so under a Business License issued by the Tribe and to pay Tribal levy and other amounts to the Tribe; and

WHEREAS, periodically, businesses fail to pay their levy obligation to the Tribe in a timely manner; and

WHEREAS, some sections within C.C. Chapter 105 and Chapter 106 should be amended to clarify and make consistent the authorities and remedies available to the Tribe when a business fails to pay Tribal levy and other fees required by Tribal law.

NOW THEREFORE BE IT ORDAINED by the Eastern Band of Cherokee Indians in Tribal Council assembled, at which a quorum is present, that C.C. Section 105-4, Section 106-21, Section 106-22, and Section 117-33, shall be amended to read as follows:

Sec. 105-4. - Collection and payment of Levy.

(a) Every person or firm trading or doing business on the Cherokee Reservation, who is liable for collecting the Tribal Levy shall maintain accurate written records of all retail sales and admissions and shall make such records available for inspection by the ~~Tribal finance officer~~ Tribe's Accounting Director or his or her designee within the Budget and Finance Office, or auditors retained by the Tribe.

(b) Each person or firm trading or doing retail business on the Cherokee Reservation shall pay the Tribal Levy on all receipts from sales and admissions no later than the 15th day of each month for all sales and admissions receipts in the previous month. A report of the receipts on a form prescribed by the Tribe shall be filed with the payment and the payment shall be identified by the respective ~~Trader's~~ Tribal Business License number and name of business as shown on the license.

(c) Filing shall be considered timely if the reports, together with Tribal Levy collected, are hand delivered to the Tribe's Budget and Finance Office or placed in the United States mail and postmarked no later than the 15th day of the month following the month being reported. If the

15th day of the month falls upon a weekend or legal holiday, reports shall be due in same manner upon the next business day.

(d) For each report not filed by such date and accompanied by the proper amount of Tribal Levy, there shall be assessed a penalty in the amount of 25 percent of the amount of the Tribal Levy properly due the Tribe, with the penalty to be not less than \$100.00.

(e) ~~Upon a licensee failure~~ If a licensee fails to pay the Tribal Levy and file the required gross receipts report by close of business on the 15th fifteenth day of the month (4:30 p.m.), there shall be assessed interest at the rate of 12 percent per annum on the amount of the Tribal Levy properly due the Tribe. Interest shall run from the first day of the month in which the Tribal Levy payment is due through the date of payment. If a licensee's Tribal Levy payment is made by a check that is returned to the Tribe by the bank due to insufficient funds, the Tribe may resubmit the check and charge the licensee a fee for reprocessing the check. If a check is returned by the bank because the account has been closed, the Tribe may also charge a fee. ~~In either case, the Tribe may prosecute the licensee under applicable provisions of Chapter 14, Cherokee Code.~~ Further, the Tribe may require the licensee to make all future Tribal Levy payments by cash, postal money order or certified cashier's check. Any returned checks shall be considered nonpayment and shall be subject to the same penalty and interest, as set out in this section. Anyone submitting a check that is returned shall be responsible for reimbursing the Tribe for processing the check within ten days after notification. ~~In addition to other remedies, if an enrolled member who is required to pay the Tribal Levy fails to pay it in a timely manner, the Tribe may garnish the member's per capita distribution pursuant to article XIV, chapter 16, Cherokee Code.~~

(f) ~~Failure to pay levy and other fees. Any~~ In addition to the actions authorized in subsection (e), if a person or entity that is required to be licensed under this Chapter ~~that~~ fails to pay wages, Tribal levy, privilege and license fees as required, they shall be subject to the remedies expressed in this section. ~~has violated this Chapter.~~ Upon a violation, the Tribe's Accounting Director or, at his or her request the Tribe's Attorney General, shall provide notice and a 30-day opportunity to cure the violation. Notice shall be in writing but may be achieved by email or letter to the address on file at Budget and Finance Office. If the violation is not cured within the 30-day period provided in the notice, the Accounting Director or his or her designee shall suspend the business license until the violation is cured. If the violation is not cured within 90 days of the date of the original violation, the Accounting Director or his or her designee shall revoke business license and the license shall not be reinstated until all amounts owed to the Tribe are paid in full and the Tribal Business Committee approves the reinstatement. The Business Committee shall have the authority to approve or deny reinstatement of a revoked license, and may condition reinstatement on payment of all amounts due by a date certain, authorizing a per capita garnishment, authorizing a payment plan, and any other action the Committee determines is appropriate and in the best interest of the Tribe. Compliance may be by suspension or revocation of the business license by the Revenue Officer after notice and 30 days is provided in

which to cure the breach. If a cure is not provided within that 30 day period, the Revenue Officer shall suspend or revoke the license. Such action A revocation of a business license may be appealed to the Business Committee as provided in CC Section 106-22. If a defaulting licensee shall be canceled and all his businesses closed upon such cancellation of a Tribal Trader's License, the matter shall be referred to the United States Attorney or the Tribal Attorney to collect the amount due the Tribe, including the Tribal Levy, together with any fee, penalty and interest.

(g) In addition to the other remedies described in this section, if an enrolled member who is required to pay Tribal Levy fails to pay it in a timely manner, and does not cure the violation as required above, the Tribe may garnish the member's per capita or general welfare distribution pursuant to C.C. Chapter 16, Article XIV. Additionally, any person or entity who fails to pay Tribal levy as required, and fails to cure a violation as required above, may be prosecuted under appropriate provisions of the Tribe's criminal law expressed in C.C. Chapter 14, Cherokee Code.

(h) Compliance with this article is hereby made a condition of the use of any land or premises on the Cherokee Indian Reservation. ~~The Secretary, Superintendent, Principal Chief and Tribal Council shall require compliance with this article as a condition~~ and for issuing and maintaining in effect any Trader's License for trading Tribal Business License or for conducting business on the Cherokee Reservation.

Sec. 106-21. - Failure to pay levy and other fees.

Any person or entity required to be licensed under this Chapter that fails to pay wages, Tribal levy, privilege and license fees has violated this Chapter. Compliance shall be enforced as provided in C.C. Section 105-4, may be by suspension or revocation of the business license by the Office of Budget and Finance after notice and 30 days is provided in which to cure the breach. If a cure is not provided within that 30 day period, the Office of Budget and Finance shall suspend or revoke the license. Such action may be appealed to the Business Committee.

Sec. 106-22. - Appeal.

(a) Decisions of the Office of Budget and Finance as to matters governed by this Chapter, and decisions of the Tribe's Accounting Director or designee regarding suspension or revocation of a Tribal Business License as provided in CC Chapter 105, may be appealed to the Business Committee. Such appeals must be filed in writing with the Accounting Director and the Business Committee secretary, with a copy to the Office of Budget and Finance Attorney General, within 30 days of the receipt of notice of the decision of the Office of Budget and Finance in question.

(b) If the subject of the appeal is a denial by the Office of Budget and Finance of an application for a new license, the decision of Appeals of matters governed by C.C. Chapter 105 or Chapter 106 shall be to the Business Committee only, the Committee's decision shall be final, and no appeal beyond the Business Committee is allowed.

~~(e) If the subject of the appeal is any decision of the Office of Budget and Finance not identified in Subsection (b), the decision of the Business Committee may be appealed to the Cherokee Tribal Court; provided, however, that the Court's review shall be limited to whether the decision of the Business Committee was an abuse of discretion.~~

Sec. 117-33. Business Committee.

- (a) The Committee shall approve all sales of improvements among Tribal members together with any transfers of ownership or occupancy of any Tribal lands. The Committee shall negotiate and execute in behalf of the Tribe all leases or permits for both assigned and unassigned Tribal lands in compliance with existing Tribal law and federal law and regulations appertaining thereto and based upon the merits of each application.
- (b) The Committee shall approve leasehold estate mortgages by nonmembers when such mortgage will secure a loan to construct a business on leased premises or improve and upgrade an existing business on leased premises. Only mortgages to secure loans from licensed and accredited state or federal lending agencies shall be approved. A material factor in approving such mortgages shall be the financial statements, character and credit references of the applicant, and the Committee shall ensure that the applicant is of good character, has the ability and experience to operate the business enterprise successfully and has sufficient capital to conduct the enterprise on a sound financial basis.
- (c) The Committee shall be composed of the Principal Chief, the Vice-Chief, the Chairman of the Tribal Council, the Vice-Chairman of Tribal Council, and four other members of Tribal Council which shall consist of a member from the four communities not yet represented. Should there be a conflict or other reason for not attending, the vacant seat will be filled by the other community representative from the same community.
- (d) In addition to the authority given to the Tribal Business Committee in this section and in C.C. Chapter 106 to take certain actions to address compliance with that chapter, the Business Committee is authorized to impose fines ~~in the amounts provided in that chapter and in~~ and take other actions described in C.C. Chapter 105, to enforce compliance therewith.

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

Submitted by Michael McConnell, Attorney General.