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CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

FEB 05 2026
Date: _____

ORDINANCE NO. 112 (2026)

An ordinance to amend CC Chapter 17 to provide for the distribution of certain revenues from Qualla Enterprises, LLC, to the Tribe and Tribal members.

WHEREAS, Qualla Enterprises, LLC, was formed by the Tribe under Cherokee Code (CC) 55B to be the Tribe's business entity for the production and sales of cannabis products; and

WHEREAS, Qualla Enterprises, LLC is identified in CC 117-46.2 as a revenue generating entity for the Tribe; and

WHEREAS, in Resolution No. 576 (2025), the Tribe and Qualla Enterprises agreed to re-shape their financial relationship, in part to provide that a portion of Qualla Enterprise's net revenue should be paid to the Tribe for distributions to Tribal members; and

WHEREAS, Qualla Enterprises has sufficient revenue to support making distributions to Tribal members; and

WHEREAS, CC Chapter 17 should be amended to provide a system for making such distributions.

NOW THEREFORE BE IT ORDAINED by the Eastern Band of Cherokee Indians in Tribal Council assembled, at which a quorum is present, that CC Chapter 17, governing the regulation of production and sale of cannabis products shall be amended to add thereto a new Article VIII, to read as follows:

ARTICLE VIII. – CANNABIS REVENUE ALLOCATION PLAN

Sec. 17-100. Purpose.

(a) The purpose of this article is to provide a system by which certain revenues distributed by a Qualified Cannabis Company to the Tribe may, in turn, be distributed by the Tribe to its enrolled members. This article provides parameters for such distributions so that the distributions may be made as per capita or general welfare distributions, in a manner similar to how the Tribe distributes gaming revenues to enrolled members under CC Chapter 16C. To be cautious, due to inconsistent interpretations of governing law and restrictions imposed by lenders, the Tribe chooses to segregate cannabis revenues from gaming revenues and to create a separate system for distributions of cannabis revenues to enrolled members.

(b) In addition to (a), this Article is enacted to promote the general welfare of the Eastern Band of Cherokee Indians and its members, to provide for fair and equitable distribution to eligible enrolled members of certain revenues provided to the Tribe by a Qualified Cannabis Company, as defined in this article, and to provide for other uses of such revenues if desired by the Tribe.

Sec. 17-101. Funds subject to this article.

The funds subject to distribution under this Article are the revenues provided to the Tribe by a Qualified Cannabis Company, as defined herein, by virtue of Resolution No. 575 (2025) and agreements entered pursuant to that resolution.

Sec. 17-102. General welfare exclusion.

The revenues obtained by the Tribe and distributed to enrolled members pursuant to this Article are distributed to provide general welfare assistance to eligible Tribal members for services, activities and needs including medical expenses, housing, utility and transportation expenses, energy assistance, health and wellness activity expenses, social services expenses, cultural, spiritual and educational expenses, and other related expenses. It is the Tribe's intent that the assistance provided pursuant to this Article may be provided in the form of distributions under a General Welfare Exclusion (GWE) Program in compliance with requirements imposed by the U.S. Internal Revenue Service so that such distributions are excluded from gross income for federal income tax purposes.

Sec. 17-103. Definitions.

For purposes of this article:

Distributable net revenue shall mean all revenue distributed to the Tribe by a Qualified Cannabis Company pursuant to Resolution No. 576 (2025), and agreements between the Tribe and a Qualified Cannabis Company that arise from Resolution 576.

Eligibility for disbursement shall apply to any person who is an enrolled member of the tribe as of January 1, 2026, and each subsequent disbursement date thereafter, provided that person is enrolled no less than 60 days preceding a scheduled distribution to members under this Article and meets all requirements of this Article.

Cannabis Trust Fund shall mean the trust fund established pursuant to this Article.

External investments shall mean investments that may be made by the Cannabis Trust Fund which must be made under the Prudent Investor Rule, in accordance with the investments permitted to be made by such funds in this article, as amended or supplemented from time to time.

Equivalent degree shall mean a high school diploma, GED, degree from a vocational or technical college, or other appropriate educational institution as determined by the Tribe.

General Welfare Exclusion Program shall mean the laws and policies written or adopted by the Tribe to provide a mechanism for providing benefits, which may include financial distributions, to eligible Tribal members so that the benefits are excluded from federal income taxation by the U.S. Internal Revenue Service.

1 *Interim Distribution Fund* shall mean a fund into which distributable net revenue from a
2 Qualified Cannabis Company is deposited monthly by Tribal Management and from which funds
3 are distributed as per capita payments to competent adult members on a semi-annual basis and
4 into the Cannabis Trust Fund semi-annually for minor and other legally incompetent members.
5 This Fund shall be invested only in conservative investments, such as (but not exclusively) U.S.
6 Treasury bills, other U.S. Government obligations or collateralized bank certificates of deposits.
7 Only one type of instrument shall be used during the accrual period and the type of investment
8 used will be determined by interest rate predictions within the accrual period. The obligations
9 shall have a maturity date of no later than November 15 and May 15. The instrument used during
10 each period shall be approved by the Investment Committee and the Tribal Budget and Finance
11 Office by September 1 and March 1.

12 *Internal investments* shall mean investments that are made by allocation or distribution of
13 funds through the Tribal budget process.

14 *Manager* shall mean that person or institution retained by the Tribe to manage and oversee
15 the investments of the Cannabis Trust Fund.

16 *Members* shall mean those persons who are duly recognized as enrolled members of the
17 Eastern Band of Cherokee Indians by the Tribe.

18 *Minor* shall mean a member who has not yet reached the age of 18 years.

19 *Cannabis Trust Fund* shall mean a fund created by the Tribe pursuant to this Article to
20 receive the distributable revenue from a Qualified Cannabis Company on behalf of enrolled
21 minors and incompetent members of the Tribe.

22 *Revenue allocation plan* shall mean this Article.

23 *Qualified cannabis company* means any and all limited liability companies formed under
24 CC Chapter 55B, in which the Tribe is the sole member, and that are licensed by the Cannabis
25 Control Board to engage in the production and sales of cannabis products under CC Chapter 17.

26 *Tribal Council* shall mean the legislative body of the Eastern Band of Cherokee Indians.

27 *Tribal Court* shall mean the Cherokee Court established pursuant to Article 7 of the
28 Cherokee Code.

29 *Tribal entity* shall mean the Tribe and its boards, offices, programs, divisions, and entities,
30 including but not limited to revenue generating entities listed in CC Section 117-46.1.

31 *Tribal management* shall mean the Executive Committee and the Tribal Finance Officer,
32 who shall be jointly responsible for verifying the calculation of distributable net revenue on a
33 monthly basis for purposes of this Article and for making monthly deposits of such distributable
34 net revenue into the appropriate accounts or funds under this Article.

35 *Tribal shares* is defined as: Total Shares = 12 months/12 shares of the competent adult + 12
36 months/12 shares minors + x months per deceased members /12 shares).

37 *Tribe* shall mean the Eastern Band of Cherokee Indians. It does not mean individual
38 members of the Tribe.

1 **Sec. 17-105. Membership and eligibility.**

2 (a) *Membership requirements.* Those members, including minors and other legal incompetents,
3 who are recognized by the Tribe as duly enrolled, and who do not fall within the specific
4 exemptions listed in paragraph (b) below, shall be eligible for semi-annual distributions in
5 the Cannabis Trust Fund and/or per capita payments, or if appropriate, in the form of
6 general welfare distributions.

7 (b) *Ineligible members.* The following are not eligible to receive distributions:

8 (1) A former member of the Eastern Band of Cherokee Indians who has been formally and
9 officially disenrolled by the Eastern Band of Cherokee Indians. Any person, who has
10 been disenrolled by the Eastern Band of Cherokee Indians based on false or misleading
11 representations in the enrollment application process, or on the knowing acceptance of
12 financial benefits of membership in any other Indian Tribe, shall be liable in Tribal
13 Court for repayment of all funds received from the Eastern Band of Cherokee Indians.

14 (2) A member of the Eastern Band of Cherokee Indians who has been convicted in a court
15 of law of theft, embezzlement, or any other crime involving unlawful taking of money
16 or property from the Tribe or any of its entities.

17 (3) An enrolled member of the Eastern Band who for religious or other reasons has
18 voluntarily signed a waiver of his or her cannabis revenue distributions. Such a person
19 shall not be eligible to receive any cannabis revenue distributions during the period
20 such a waiver remains on file with the Tribal Enrollment Office or the Budget and
21 Finance Office. Such a waiver may be revoked, but the revocation shall only be
22 effective as to future cannabis revenue distributions distributed 60 days or more after
23 written revocation of the waiver is received by the Tribal Enrollment Office.

24 (c) *Applications, written determination of eligibility.* Applications for a finding of eligibility
25 may be made at any time and shall be submitted in such form and manner as the Enrollment
26 Office may reasonably require. In order to provide for the orderly review and consideration,
27 applications submitted within less than 60 days of a scheduled distribution date shall not be
28 eligible for distribution until the next scheduled distribution. Only names of the newly
29 enrolled members for the current year shall be published in the Cherokee One Feather no
30 later than 15 days following the aforementioned dates. Any applicant found not to be
31 eligible shall be provided with a written determination of the basis for the denial by the
32 Enrollment Office.

33 (d) *Appeal of findings.* Any person who believes that the Enrollment Office has made an
34 erroneous determination regarding their own membership may appeal that finding in
35 accordance with the Tribal Enrollment Ordinance, Chapter 49 of this Code. The Enrollment
36 Officer shall offer such evidence and testimony as may be appropriate to justify the finding
37 of ineligibility.

38 (e) *Time limit for claiming distribution or requesting reissuance of a distributed check or
39 distribution.*

40 (1) Except as otherwise provided in this Section, a member who is eligible for, but does
41 not receive, a cannabis revenue distribution, or who received the same but for any
42 reason required the check or distribution to be re-issued, must make a written request

1 to the Budget and Finance Office within 60 days of the distribution. The date of
2 distribution is the date on which the Budget and Finance Office makes its bulk mailing
3 of cannabis revenue distribution checks to members of the Tribe, or the date of the
4 general welfare distribution.

5 (3) In circumstances where a deceased member is eligible for but does not receive a
6 cannabis revenue distribution, the authorized representative of the deceased member's
7 estate must make a written request to the Budget and Finance Office for the
8 distribution within one year of the deceased member's death. Undisbursed distributions
9 shall be treated as per capita distributions for purposes of this subsection. This
10 subsection does not apply to funds held for the benefit of a minor or incompetent
11 enrolled member the Cannabis Trust Fund.

12 (4) Upon failure to make a request in writing within the time provided in this Section, the
13 member's entitlement to the missed distribution shall expire. Any unclaimed funds held
14 in reserve for such claims shall be distributed to all eligible members at the next per
15 capita distribution.

16 (5) Infant per capita payments missed. The 60-day time limit expressed in this Subsection
17 does not apply to certain persons who were enrolled as members of the Tribe as infants
18 but who were legally adopted as infants. These persons may make a claim for missed
19 distributions only. To claim a missed distribution, these persons must submit a
20 resolution to Tribal Council requesting a hearing on the matter and must:
21 (A) Have been enrolled as a member while an infant;
22 (B) Be living and eligible to receive per capita distributions;
23 (C) Provide the same personal information to the Tribe that is required of all other
24 recipients of per capita distributions;
25 (D) Prove that they were adopted as infants;
26 (E) Prove that they have lived their entire lives until they made the claim in a place
27 sufficiently removed from the Qualla Boundary to preclude their contact with or
28 knowledge of the Tribe; and
29 (F) Prove that they were unaware of their membership in the Tribe, of their eligibility
30 to receive distributions, and the time limit for claiming them.
31 If an adopted enrolled member satisfies these requirements to Council's satisfaction at
32 the hearing, Tribal Council may declare the person eligible to receive the cannabis
33 revenue distributions and may direct payment to that person. In these cases, the person
34 may receive their share of distributions made since the person attained 18 years of age.
35 However, the person shall not receive more than \$50,000.00 in unclaimed cannabis
36 distributions. The Tribe shall not pay any more than the principal amount determined
37 by the Tribe to be due and is not liable to pay interest or any other enhancements to the
38 principal amount.

39 (f) *Member must provide accurate information.* Distributions of cannabis revenues are made
40 based on the official Tribal membership roll provided by the Enrollment Office to the
41 Budget and Finance Office. Each enrolled member is responsible for providing to the
42 Enrollment Office complete and accurate personal information including, but not limited to,
43 name, mailing address and social security number, in a writing they have prepared. The

1 member must keep that information current. The Tribe is not liable for a member's failure to
2 provide the information in the manner required.

3 **Sec. 17-106. Distribution to members.**

4 (a) *Semi-annual distribution.* Distributions of cannabis revenues provided to the Tribe by a
5 qualified cannabis company shall be made two times each year to all competent adult
6 members eligible for the distribution as set forth in this Article. Likewise, an appropriate
7 share shall be set aside twice each year in the Cannabis Trust Fund on behalf of minor and
8 incompetent enrolled members.

9 (b) *Distribution for deceased members.* Eligible members as defined in this Article who have
10 passed away prior to the date of any scheduled disbursement shall be eligible to receive a
11 pro rata share of the proposed disbursement for each and every month during the calculation
12 period that they were alive. The Tribal Finance Office shall disburse any and all funds of the
13 deceased Tribal member to the authorized, or court appointed, administrator for the
14 deceased's estate.

15 (c) *Distribution to handicapped members.* Eligible minors who have a severe handicap or
16 terminal illness may request early distribution, or if appropriate, general welfare
17 distributions, through their parent or guardian in accordance with this Article.

18 (d) *Timing for distributions.* Distribution to members shall be made on, or as near as practical,
19 the following dates:

20 April 1 and August 1 of each year.

21 Any scheduled disbursements made in accordance with this Article shall be made on or near
22 the above referenced dates. Distributions shall occur only on regular business days. In
23 calculating distribution, the Finance Office shall use financial data provided by the Qualified
24 Cannabis Compay for the first semi-annual disbursement and the second semi-annual
25 disbursement, which shall be reconciled to a certified audit.

26 (i) *Certified roll of eligible members.* The Tribal Enrollment Office shall deliver to Tribal
27 Management a current certified roll of all members eligible under this Article, and in
28 accordance with the Tribal Enrollment Ordinance, as of February 1 and a second certified
29 roll as of July 1 of each year. Said certification shall be submitted to the Finance Office no
30 later than 15 days following the aforementioned dates. Only names of the newly enrolled
31 members for the current year shall be published in the Cherokee One Feather no later than
32 15 days following the aforementioned dates.

33 (j) *Percentage of distributable net revenue.* The percentage of the cannabis revenue available
34 for distribution to each competent adult member under this Article shall be determined by
35 applying the following formula:

36 An amount shall be added which is the sum of Total Shares. Total Shares is defined as:
37 Total Shares = 12 months/12 shares of the competent adult + 12 months/12 shares
38 minors + x months per deceased members/12 shares. Total shares shall then be divided
39 into net cannabis revenue to equal the distribution per share. The distribution per share
40 shall be multiplied by the total shares distributable to competent adult members,
41 minors, and deceased members which shall equal no more than the Cannabis Trust
42 Fund and distribution which is required pursuant to this Article. Anyone not on the

1 certified roll for the semi-annual distribution shall have no right to any past Cannabis
2 Trust Fund distributions or competent adult distributions.

3 (k) Balance of funds. The balance of the funds after calculation of the amount to be distributed
4 to competent adult members shall be transferred to the Cannabis Trust Fund.

5 (l) No waiver of sovereign immunity. Nothing in this Chapter shall be deemed a waiver of the
6 sovereign immunity of the Eastern Band of Cherokee Indians, or its officers, agents, or
7 employees acting in their official capacities. To the extent that any other Tribal law may be
8 interpreted as such a waiver of sovereign immunity for any claim or action related to
9 distribution of per capita payments, it is hereby rescinded.

10 **Sec. 17-107. Minors and other legal incompetents.**

11 The interests of minor and legally incompetent members otherwise entitled to receive
12 cannabis revenue distributions shall be protected as follows:

13 (a) Trust Fund for enrolled minor and incompetent members.

14 (1) The Tribe shall establish a legal trust (hereinafter "the Cannabis Trust Fund") for the
15 benefit of all minor members and legally incompetent members who shall be eligible
16 for distributions of revenues pursuant to this Article.

17 (2) Members of the Investment Committee shall serve as the Trustees of the Cannabis
18 Trust Fund, provided that there shall be no fewer than three Trustees. The Trustees
19 shall select an institutional Manager and such other advisors as they deem necessary,
20 with suitable expertise and discretion to administer the Cannabis Trust Fund and
21 invest its assets. The Cannabis Trust Fund shall be invested in a reasonable and
22 prudent manner so as to protect the principal and seek a reasonable return.

23 (3) The Cannabis Trust Fund shall be established as a "grantor" trust, under which the
24 Tribe is the grantor and owner of the trust for the benefit of its enrolled minor and
25 incompetent members.

26 (4) The Cannabis Trust Fund shall comply with all applicable internal Revenue Code
27 provisions and Internal Revenue Service (IRS) regulations, revenue procedures,
28 revenue rulings, or other guidance in force from time to time, to ensure that amounts
29 contributed to and held in the fund shall not be taxable to the individual enrolled
30 member until they are actually distributed, or made available for distribution pursuant
31 to this section, to the individual enrolled member. The necessary provisions to
32 achieve these goals shall be included in the trust documents.

33 (b) Distributions of cannabis revenue under this Article shall not be subject to the
34 following:

35 (i) garnishment or assignment;

36 (ii) staggering of such distributions; and

37 (iii) advance distributions.

1 **Sec. 17-108. Taxation.**

2 Distributions of cannabis revenues to individual members under the Tribe's general welfare
3 exclusion are not subject to federal income taxation; provided, however, distributions of cannabis
4 revenues by members as per capita payment (outside of the general welfare exclusion) are
5 subject to federal income taxation and the latter shall be subject to the withholding of appropriate
6 amounts for such tax payment in the manner and to the extent provided by applicable law.

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

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14 *Submitted by Michell Hicks, Principal Chief.*