

# TABLED

## CHEROKEE COUNCIL HOUSE CHEROKEE, NORTH CAROLINA

Date: JUL 11 2019

### ORDINANCE NO. 659 (2019)

WHEREAS, to provide consistency in the application and enforcement of motor vehicle laws on its roads, the Tribe has adopted Chapter 20 of the North Carolina General Statutes, which governs motor vehicles (C.C. § 20-1(a)); and

WHEREAS, in 2015, North Carolina passed Article 10A of N.C. General Statutes and that article is now part of Tribal law. Article 10A provides comprehensive regulation of "Transportation Network Companies" (TNCs), which are defined in N.C. Gen. Stat. § 20-280.1(6). The two most prominent TNCs are Uber and Lyft; and

WHEREAS, TNCs are heavily regulated in Article 10A, and must obtain from the North Carolina DMV annual permits, pay fees, provide proof of insurance, and conduct background checks on drivers, among other things; and

WHEREAS, due to this comprehensive regulation, the law provides that counties, cities, airport operators and "other governmental agenc[ies]" are not "authorized to impose fees, require licenses, limit the operation of TNC services, or otherwise regulate TNC services" (N.C. Gen. Stat. § 20-280.10). Because the Tribe has adopted Chapter 20, this limit on regulation also applies to the Tribe; and

WHEREAS, enrolled member William Roberts, who owns and operates Flying Feathers Cab Service in Cherokee, has asked Tribal Council to pass a law to regulate TNCs in Cherokee; and

WHEREAS, to regulate TNCs under Tribal law separately from how they are currently regulated under state law, the Tribe has to amend C.C. § 20-1 to expressly state that it does not adopt N.C. Gen. Stat. § 20-280.10.

NOW THEREFORE BE IT ORDAINED by the Eastern Band of Cherokee Indians in Tribal Council assembled, at which a quorum is present, that Cherokee Code § 20-1 shall be amended to read as follows:

#### **Sec. 20-1. - Motor vehicle/traffic laws.**

(a) In order to ensure consistency in the application and enforcement of all civil and criminal traffic and motor vehicle laws on the Cherokee Indian Reservation and in surrounding areas, the Tribe adopts Chapter 20 of the North Carolina General Statutes and any amendments to that chapter which may be made in the future. In so doing, all persons operating motor

1 vehicles on the Cherokee Indian Reservation must abide by these provisions, including the North  
2 Carolina licensing and registration requirements. Any references in Chapter 20 of the N.C.G.S.  
3 to violations occurring within the State of North Carolina shall also include violations occurring  
4 within the Cherokee Indian Reservation. Speed limits on all state highways shall be established  
5 pursuant to NCGS 20-141. The speed limit for the approximately one-half mile section of US 19  
6 running from the east intersection of US 19 with US 441, eastward to SR 1391 shall be 20 miles  
7 per hour. Speed limits on all reservation roads (other than state highways) shall be established  
8 and posted by the Cherokee DOT in consultation with the Cherokee Police Department.

9 (1) Regardless of the Tribe's adoption in subsection (a) of N.C.G.S. Chapter 20 and any  
10 amendments to that chapter, the Tribe does not adopt the changes to that chapter that are  
11 expressed in N.C.G.A. Senate Bill 189 (2005), Session Law 2005-282, which imposes  
12 age and safety requirements for the operation of all-terrain vehicles.

13 (2) Regardless of the Tribe's adoption in subsection (a) of N.C.G.S. Chapter 20 and any  
14 amendments to that chapter, the Tribe does not adopt N.C.G.S. § 20-280.10 (governing  
15 statewide regulation of transportation network companies).

16 (b) All civil traffic infractions contained therein shall be enforced by the North Carolina  
17 Highway Patrol, Federal Law Enforcement Officers, and the Cherokee Police Department who  
18 shall cite all violators into the Cherokee court.

19 (c) Persons subject to the Cherokee court's civil jurisdiction may have civil penalties  
20 imposed as set forth in Chapter 20 of the North Carolina Statutes.

21 (d) Criminal penalties may only be imposed against persons who are subject to the  
22 Cherokee court's criminal jurisdiction and such penalties shall be as defined under Chapters 15A  
23 and 20 of the North Carolina General Statutes, as amended, and as otherwise defined by North  
24 Carolina law, provided however that no punishment shall exceed three years imprisonment, a  
25 \$15,000.00 fine or both.

26 (e) All traffic and motor vehicle violations shall be enforced in accordance with existing  
27 compacts in an effort to ensure cooperation between all law enforcement agencies.

## 28 **Sec. 106-1. - Definitions.**

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30 (a) Business means any person or entity selling, purchasing or trading goods, services or  
31 information on tribal land or conducting such activity at retail or wholesale, on tribal land. To be  
32 within this definition, the person or entity conducting business has to be physically present on  
33 Tribal land, regardless of whether the presence is permanent or temporary.  
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35 (b) Tribe means the Eastern Band of Cherokee Indians.  
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37 (c) Tribal land means real property held in trust by the Eastern Band of Cherokee Indians  
38 or the federal government for the benefit of the Eastern Band of Cherokee Indians.  
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2 BE IT FINALLY ORDAINED that all ordinances that are inconsistent with this ordinance are  
3 rescinded, and that this ordinance shall become effective when ratified by the  
4 Principal Chief.  
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9 *Submitted by the Office of the Attorney General for William Roberts*