

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

Date: _____

ORDINANCE NO. _____ (2026)

An ordinance amending the statute of frauds in Chapter 22 of the Cherokee Code.

WHEREAS, the statute of frauds is a principle that requires certain types of contracts, especially those for land, be in writing and signed by the parties to the contract to be enforceable; and

WHEREAS, the policy for the statute of frauds is to prevent any misunderstandings and protect parties in disputes from being bound by oral promises they may not have ever made; and

WHEREAS, the Tribe has adopted a statute of frauds in Chapter 22 of the Cherokee Code, however it needs to be amended to clarify that agreements in writing are voidable by a party to the agreement, rather than automatically void by law, and that an agreement is enforceable against either party that signed the agreement, rather than just the grantor of a property interest to ensure that both parties to the agreement are on equal footing; and

WHEREAS, this ordinance would amend Section 22-18 and Section 22-19 of the Cherokee Code to reflect this proposed language.

NOW THEREFORE BE IT ORDAINED by the Eastern Band of Cherokee Indians in Tribal Council assembled, at which a quorum is present, that Chapter 22 of the Cherokee Code is amended as follows:

Sec. 22-18. - Statute of frauds for transactions in Tribal land.

Except as otherwise provided in this Article, any agreement to transfer any interest in Tribal lands, including lease agreements and use permits when the lease or use permit exceeds one year in duration, is ~~void and unenforceable~~ **voidable by a party thereto** unless the agreement is expressed in a writing and signed by the party ~~transferring the interest (the grantor)~~ **to be charged**, or is signed by their lawful agent who has authority to sign the instrument for the principal.

Sec. 22-19. - Minimum contents and requirements for a valid transfer of Tribal land.

- (a) Any **written** agreement to transfer an interest in Tribal land must express all of the following:
 - (1) It must identify the parties to the transaction;
 - (2) It must contain a sufficient legal description of the Tribal land in question so that the land can be identified with reasonable certainty;
 - (3) It must identify the legal interest that is being transferred;

1 (4) It must identify material consideration to be exchanged between the parties.
2

3 ~~(b) Any agreement that is subject to subsection (a) shall be signed by the grantor. If the agreement~~
4 ~~is not signed by the grantor, or his or her lawful agent, the agreement is void. Such agreement also~~
5 ~~shall be signed by the grantee if the agreement requires the grantee to provide consideration (such~~
6 ~~as the payment of money or the performance of an act) in exchange for the land.~~
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8 (eb) Notwithstanding any other provision of this article, the statute of frauds is satisfied when the
9 land transfer at issue is authorized by Tribal Council resolution duly passed and ratified under
10 Tribal law and so long as the resolution names the parties and the parcels of Tribal land at issue so
11 the parties and parcels can be identified with reasonable certainty.
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13 BE IT FINALLY ORDAINED that all ordinances that are inconsistent with this ordinance are
14 rescinded and this ordinance shall become effective when ratified by the Principal
15 Chief.
16

17 *Submitted by the Office of Attorney General*