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Cherokee Council House  
Cherokee, North Carolina

DEC 08 2022

Date

Ordinance No. 461 (2022)

WHEREAS, the Charter and Governing Document authorizes and empowers the Eastern Band of Cherokee Indians (EBCI) Tribal Council to adopt laws and regulations for the general government of the Tribe. Charter and Governing Document, sect. 23 (Sept. 5, 1995) *see also* C.C. §117-10.

WHEREAS, on August 16, 2021, Tribal Council established a medical marijuana code. EBCI Ordinance No. 539 (Aug. 16, 2021) found at C.C. Ch. 17.

WHEREAS, Qualla Enterprise, LLC is hiring individuals for employment, and;

WHEREAS, an "excluded offense" includes a conviction of the Tribe's Controlled Substances Act or an offense that would constitute a felony, further the offense time period is ten years from the sentence, term of probation, incarceration, or supervised release. C.C. §17-2.

WHEREAS, in theory the ten-year provision is adequate; however, in practice, the ten year provision excludes enrolled members who passed a background check for tribal employment, and;

WHEREAS, Qualla Enterprise, LLC does not want to exclude any enrolled member or any individual from a mistake that they have taken responsibility for and chose to turn their life around.

WHEREAS, Qualla Enterprise, LLC acknowledges that one of the Cherokee Core Values is strong individual character and should an individual have the courage and integrity to be honest and humble about their past, Qualla Enterprise, LLC should assist them in getting their life back on track.

WHEREAS, there is a need to amend C.C. §17-2 and reduce the excluded offense time provision.

NOW THEREFORE BE IT ORDAINED in Council assembled at which a quorum is present that the Tribal Council amends Cherokee Code Chapter 17, Medical Marijuana Code, as follows in EXHIBIT A.

BE IT FURTHER ORDAINED the Ordinance provisions that amend or adopt new sections of the Cherokee Code shall be codified by the Department of Justice. The

Department of Justice shall incorporate such amended provisions in the next codification of the Cherokee Code.

BE IT STILL FURTHER ORDAINED should any provision of this Ordinance be determined invalid by the Cherokee Supreme Court, or the Cherokee Court without appeal to the Cherokee Supreme Court, or any other court of competent jurisdiction, those portions of this Ordinance which are not determined invalid shall remain the law of the Eastern Band of Cherokee Indians

BE IT FINALLY ORDAINED that any resolution or ordinance in conflict are rescinded and that this ordinance shall become effective upon ratification.

*Submitted By: Qualla Enterprise, LLC Board of Managers*

Cherokee Code

Chapter 17 – MEDICAL MARIJUANA  
ARTICLE I. – GENERAL PROVISIONS

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**Sec. 7-2 –Definitions.**

As used in this chapter, unless the context clearly otherwise requires, the following words and terms have the following definitions:

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*Excluded offense* means a conviction of an offense pursuant to Article XIV.A of Cherokee Code Chapter 14 or an offense that would constitute a felony in the state of North Carolina or another jurisdiction. The term does not include a criminal offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed more than ~~ten~~ three years ago or an offense involving conduct that would be immune from arrest, prosecution, or penalty pursuant to this chapter except that the conduct occurred before the effective date of this chapter or in a jurisdiction other than the Eastern Band of Cherokee Indians.

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