

TABLED  
WITHDRAWN  
DEC 05 2019

CHEROKEE COUNCIL HOUSE  
CHEROKEE, NORTH CAROLINA  
OCT 14 2019

DATE

ORDINANCE NO. 1 (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 Gen. Statutes, which governs motor vehicles (C.C. 20-1(a)); and
- WHEREAS, in 2015, North Carolina passed Article 10A of NC 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 North Carolina Gen. Statute 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 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 agencies" are not "authorized to impose fees, require licenses limit the operation of TNCs services, or otherwise regulate TNC services" (N.C. Gen. Stat. 20-280.10). Because the Tribe has adopted Chapter 20, this limit also applies to the Tribe' and
- WHEREAS, enrolled member William Roberts, who owns and operates Flying Feathers Service in Cherokee, has asked Tribal Council to pass a law to regulate TNCs in Cherokee. This regulation shall be applicable to any and all Uber/Lyft drivers that are coming on to ande operating locally within the Tribe's jurisdiction of the Qualla Boundary with the sole intent of performing business operations on the Cherokee Indian Reservation by picking up passengers from origins on the reservation and dropping them off at destinations on the reservation. Therefore, upon adoption of this regulation all Uber/Lyft drivers that wish to conduct business on tribal land shall be required to obtain a Business License, and show proof of insurance requirements to the office of budget and finance pursuant to Cherokee Code Section 106-2(a). This regulation is

done to provide consistency across the board with other regulated licensed companies that are in operation on Tribal lands.; 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 IT BE 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 Gen. Statutes and any amendments to that chapter which may be made in the future. In doing so, all persons operating motor vehicles on the Cherokee Indian Reservation must abide by these provisions, including the North Carolina licensing and registration requirements. Any references in Chapter 20 of the N.C.G.S. to violations occurring within the state of North Carolina shall also include the violations occurring within the Cherokee Indian Reservation. Speed limits on all state highways shall be established pursuant to NCGS 20-141. The speed limit for the approximately one-half mile section of US 19 running from the East intersection of US 19 with US 441, eastward to SR 1391 shall be 20 miles per hour. Speed limits on all reservation roads (other than state highways) shall be established and posted by the Cherokee DOT in consultation with the Cherokee Police Department.

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

(2) Regardless of the tribe's adoption in subsection (a) of N.C.G.S. Chapter 20 and any amendments to that chapter, the tribe does not adopt N.C.G.S. 20-280-10 (governing statewide regulation of transportation network companies).

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

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

(d.) Criminal penalties may only be imposed against persons who are subject to Cherokee courts criminal jurisdiction and such penalty shall be defined under Chapters 15A and 20 of the North Carolina Statutes, as amended, and as otherwise defines by the North Carolina law, provided however that no punishment shall exceed three years imprisonment, a \$15,000 fine or both.

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

#### **Sec. 106-1. – Definitions.**

- (a) Business means any person or entity selling, purchasing or trading goods, services or information on tribal land or conducting such activity at retail or wholesale, on tribal land. To be within this definition, the person or entity conducting business has to be physically present on tribal land, regardless of whether the presence is permanent or temporary.
- (b) Tribe means the Eastern Band of Cherokee Indians.
- (c) Tribal land that means real property held in trust by the Eastern Band of Cherokee Indians or the federal government for the benefit of the Eastern Band of Cherokee Indians.

#### **Sec.106-2.- License Required.**

- (a) Any person or entity that wants to conduct business on tribal land may do so only with permission of the Tribe as evidenced by issuance and maintenance of a current, valid Tribal business license. The Cherokee Indian Police Department shall be the enforcing agency regarding the licensure requirement for Uber/Lyft drivers that are caught performing business functions on Tribal land.

#### **Sec.106-3. - Tribe has sovereign authority.**

The Tribe has the sovereign authority to regulate commerce on Tribal land and to issue licenses to conduct business on Tribal land.

**Sec. 106-5. – Fine for no license.**

**Any person or entity who attempts to operate a business located on Tribal land without a tribal business license or entering into a contractual agreement with the tribe or tribal entity without a tribal business license pursuant to this chapter shall be fined \$500.00 Such fines may be levied by the Office of Budget and Finance and/or the business committee.**

**Sec. 14-5.10. – Doing business without a license.**

- (a) It shall be unlawful to commence or carry on any business, trade, profession, or calling, the transaction or carrying on of which is required by law to be licensed, without having an appropriate license.**

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 William Roberts Enrolled Member of the Eastern Band of Cherokee Indians*