

# TABLED

CHEROKEE COUNCIL HOUSE  
CHEROKEE, NORTH CAROLINA

Date: JUL 11 2019

ORDINANCE NO.: 658 (2019)

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10 WHEREAS, the Eastern Band of Cherokee Indians is committed to protecting its arts and culture  
11 and in telling the Tribe's story accurately and truthfully; and

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13 WHEREAS, some arts and crafts sellers on the Qualla Boundary display and sell items that are  
14 represented as being the arts and crafts of the EBCI or of other Native American  
15 tribes, but in fact the items have no connection to Cherokee artists or Cherokee  
16 history or to other tribes; and

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18 WHEREAS, there are other laws which intend to address this problem, including the federal  
19 Indian Arts and Crafts Act (P.L. 101-644), but these laws have not prevented  
20 inauthentic Cherokee goods and goods falsely purporting to be of other tribes from  
21 being displayed and sold; and

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23 WHEREAS, for the betterment of the Tribe and the protection of its arts and culture on the Qualla  
24 Boundary, the Tribe should create its own arts and crafts act to require truth-in-  
25 advertising for items represented as Indian arts and crafts on the Qualla Boundary;  
26 and

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28 WHEREAS, in accordance with Resolution 573 (2019), enacted by Tribal Council and ratified by  
29 the Principal Chief, the Office of the Attorney General submitted this legislation for  
30 Tribal Council's consideration to prevent the problem described above; and

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32 WHEREAS, in order to clarify the Cherokee Code to reflect the policy of protecting the arts and  
33 culture of the Eastern Band of Cherokee Indians and other tribes, as well as the  
34 members of the public who unknowingly purchase inauthentic goods believing them  
35 to be truthful and accurate works, a Cherokee Arts and Crafts Act should be enacted;  
36 and

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38 NOW THEREFORE BE IT ORDAINED, by the Tribal Council of the Eastern Band of Cherokee  
39 Indians, in council assembled, at which a quorum is present, that in order to prohibit  
40 the sale of inauthentic and counterfeit Cherokee and other Native American goods,  
41 Cherokee Code Chapter 106 shall be hereby amended by adding the following  
42 Article:

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44 **Secs. 106-51 – 106-59. – Reserved.**

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46 **ARTICLE III. – Cherokee Arts and Crafts Act.**

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**Sec. 106-60. – Purpose.**

(a) This Article shall be known as the “Cherokee Arts and Crafts Act.” The purpose of this Article shall be to prohibit misrepresentation in the marketing of Cherokee arts, crafts, and goods so as to protect and promote the authenticity and integrity of Cherokee culture and members of the public engaged in commerce on the Qualla Boundary. The Tribe is committed to protecting its arts and culture and in telling the Tribe’s story accurately and truthfully.

**Sec. 106-61. – Definitions.**

- (a) Terms used in this Article shall have the following meanings:
- (1) *Cherokee, Tribe, or Tribal* shall mean or refer to the Eastern Band of Cherokee Indians.
  - (2) *Enrolled member* shall mean an enrolled member of the Eastern Band of Cherokee Indians.
  - (3) *Goods* shall mean tangible or movable personal property other than money, especially articles of trade or items of merchandise.
  - (4) *Native* shall mean or refer to the Eastern Band of Cherokee Indians or another federally-recognized Indian tribe.

**Sec. 106-62. – Prohibition of misrepresentation of Cherokee goods.**

(a) It is unlawful to offer, display for sale, or sell any good in a manner that falsely suggests it is Cherokee produced, a Cherokee product, or the product of a particular enrolled member, the Tribe, or a Tribal arts and crafts organization.

**Sec. 106-63. – Prohibition of misrepresentation of Native goods.**

(a) It is unlawful to offer, display for sale, or sell any good in a manner that falsely suggests it is Native produced, a Native product, or the product of a particular member of a federally recognized Indian tribe, a federally-recognized Indian tribe, or a Native arts and crafts organization.

**106-64. – Enforcement of this Article.**

- (a) Any person who knowingly violates any provisions of this Article shall be guilty of Trading in Inauthentic Goods. Each violation of this Article shall be punishable by a fine not to exceed \$1,000.00, and term of imprisonment not to exceed six months, or both.
- (b) Any person or business entity who knowingly violates any provision of this Article may have its Tribal business license revoked by the Business Committee.
- (c) This section does not preclude the Tribe from seeking recourse in any other lawful manner, including but not limited to actions to enforce copyright or trademark protections.

BE IT FINALLY ORDAINED, that all ordinances and resolutions inconsistent with this ordinance are rescinded, and this ordinance shall become effective upon ratification by the Principal Chief.

*Submitted by the Office of the Attorney General*