

TABLED

Cherokee Council House
Cherokee, North Carolina

MAY 02 2019

Date

ORDINANCE NO. 563 (2019)

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, the EBCI Tribal Council constitutes the Eastern Band of Cherokee Indian's Legislative Branch of government. C.C. §117-10.

WHEREAS, on October 13, 2005, the Eastern Band of Cherokee Indians amended Cherokee Code section 16-2.01. *See* Eastern Band of Cherokee Indians Tribal Council Ordinance No. 710 (2005).

WHEREAS, when the EBCI enacted Ordinance No. 710 (2005) there were conflicting sections. *See* C.C. §16-2.01(d) and (e).

WHEREAS, a recent Cherokee Supreme Court case made clear there is no property interest in a Tribal Gaming Commission appointment. *Blankenship, et. al. v. E.B.C.I. et. al.*, CSC-16-03.

WHEREAS, Cherokee Code §16-2.01 needs to be amended to correct this conflict.

NOW, THEREFORE, BE IT ORDAINED by the Eastern Band of Cherokee Indians in Annual Council assembled, at which a quorum is present that the Eastern Band of Cherokee Indians Tribal Council amends the Cherokee Code sec. 16-2.01(b) and (d), as follows in EXHIBIT A.

BE IT FURTHER ORDAINED the provisions of the Ordinance which 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 this ordinance shall become effective when ratified by the
Principal Chief.

*Submitted by: Vice-Chairman David Wolf, Yellowhill Representative
Bo Crowe, Wolfstown/Big Y Representative*

Cherokee Code

Chapter 16 – TRIBAL GAMING

ARTICLE II. – TRIBAL GAMING COMMISSION

Sec. 16-2.01. – Establishment.

b. Appointment of Commissioners: Commissioners shall be appointed by the Principal Chief, subject to the approval of the Tribal Council. Nominees to the Commission shall be selected on the basis of their business experience and ability to significantly contribute to the capabilities and functions of the Commission. A Commission appointment shall not create a property interest.

d. Except as provided in subsection (e), each Commissioner shall serve a term of ~~five~~ three years, subject to removal, with cause, by a majority of the Tribal Council. ~~Nothing in this chapter shall be construed to preclude a Commissioner from serving successive terms.~~ A Commissioner may only serve two consecutive terms. There shall be a six-month probationary period for each new appointee to be reviewed by the Principal Chief and the Tribal Council.

e. To ensure continuity in the Commission and rotation of appointments, the existing Commissioners shall continue to serve, but their terms shall be adjusted so that they serve staggered terms. Upon the effective date of this amendment, the Principal Chief shall assign term expiration dates for each current Commissioner, such that one Commissioner's term expires every year beginning December 31, 2008. The established rotation shall continue for each Commission position for future new, renewal, or replacement appointments.
