

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

July 14, 2011
(DATE)

Tabled

ORDINANCE NO. 782 (2011)

WHEREAS, the Tribal Casino Gaming Enterprise(TCGE) was established in the public interest to provide an organizational business plan directing the Tribe's Class III gaming operations; and

WHEREAS, the TCGE has the power and duty to approve annual operating, capital, and working capital budgets which fund both short and long-range goals of the Tribe's gaming operation; and

WHEREAS, as a Tribal enterprise and instrumentality, the TCGE should be subject to the same financial accountability as Tribal divisions, programs, commissions, and other enterprises; and

WHEREAS, Cherokee Code Section 16A-5(c) should be amended to add a section which requires that the annual budget of the TCGE shall not exceed the yearly percentage allowed by the EBCI Tribal Administration for every other Tribal program; and

WHEREAS, this section shall also be amended that any and all salaries, benefits, program expenses, etc., shall be kept in line with the fiscal limitations established by the EBCI Tribal administration.

NOW, THEREFORE BE IT ORDAINED by the Eastern Band of Cherokee Indians Tribal Council, at which a quorum is present, that Cherokee Code Section 16A-5(c) be amended as follows:

(c) Budgetary and Financial Authority.

(New section as deemed by Attorney General of EBCI)

The annual operating budget of the TCGE shall not exceed the yearly percentage established by the EBCI Tribal Administration, and shall be in line with what Tribal programs are mandated to abide by for fiscal budget preparation. Any and all salaries, benefits, program expenses, etc. shall be within the fiscal limitations established by the EBCI Tribal Administration.

BE IT FURTHER ORDAINED that all other sections of Cherokee Code Chapter 16A- Tribal Casino Gaming Enterprise – shall remain in full force and effect, and that all other ordinances inconsistent with this ordinance are hereby rescinded.

BE IT FINALLY ORDAINED this ordinance shall become effective upon ratification by the Principal Chief.

Submitted by: Solomon "Slick" Saunooke

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

July 14, 2011
(DATE)

Tabled

ORDINANCE NO. 783 (2011)

WHEREAS, the Tribal Bingo Enterprise(TBE) was established in the public interest to provide an organizational business plan directing the Tribe's Class II gaming operations; and

WHEREAS, the TBE has the power and duty to approve annual operating, capital, and working capital budgets which fund both short and long-range goals of the Tribe's Class II gaming operation; and

WHEREAS, as a Tribal enterprise and instrumentality, the TBE should be subject to the same financial accountability as Tribal divisions, programs, commissions, and other enterprises; and

WHEREAS, Cherokee Code Section 16B-5(c) should be amended to add a section which requires that the annual budget of the TBE shall not exceed the yearly percentage allowed by the EBCI Tribal Administration for every other Tribal program; and

WHEREAS, this section shall also be amended that any and all salaries, benefits, program expenses, etc., shall be kept in line with the fiscal limitations established by the EBCI Tribal administration.

NOW, THEREFORE BE IT ORDAINED by the Eastern Band of Cherokee Indians Tribal Council, at which a quorum is present, that Cherokee Code Section 16B-5(c) be amended as follows:

(c) Budgetary and Financial Authority.

(New section as deemed by Attorney General of EBCI)

The annual operating budget of the TBE shall not exceed the yearly percentage established by the EBCI Tribal Administration, and shall be in line with what Tribal programs are mandated to abide by for fiscal budget preparation. Any and all salaries, benefits, program expenses, etc. shall be within the fiscal limitations established by the EBCI Tribal Administration.

BE IT FURTHER ORDAINED that all other sections of Cherokee Code Chapter 16B- Tribal Bingo Enterprise – shall remain in full force and effect, and that all other ordinances inconsistent with this ordinance are hereby rescinded.

BE IT FINALLY ORDAINED this ordinance shall become effective upon ratification by the Principal Chief.

Submitted by: Solomon “Slick” Saunooke

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

July 14, 2011
(DATE)

Tabled

ORDINANCE NO. 784 (2011)

WHEREAS, the Tribal Gaming Commission (TGC) was established to regulate all forms of gaming on the Tribe's Indian lands; and

WHEREAS, the TGC's budget is partially funded by the TCGE as an operating expense, by the Tribal Bingo Enterprise for actual direct expenses related to the regulation of its gaming activities, and by licensing fees, regulatory fines, or additional funding from the Tribal Council; and

WHEREAS, as a Tribal commission, the TGC should be subject to the same financial accountability as Tribal divisions, programs, enterprises, and other commissions; and

WHEREAS, Cherokee Code Section 16-2.13 should be amended to add a section which requires that the annual budget of the TGC shall not exceed the yearly percentage allowed by the EBCI Tribal Administration for every other Tribal program; and

WHEREAS, this section shall also be amended that any and all salaries, benefits, program expenses, etc., shall be kept in line with the fiscal limitations established by the EBCI Tribal administration.

NOW, THEREFORE BE IT ORDAINED by the Eastern Band of Cherokee Indians Tribal Council, at which a quorum is present, that Cherokee Code Section 16-2.13 be amended as follows:

Sec. 16-2.13. Budget.

(New section as deemed by Attorney General of EBCI)

The annual operating budget of the TGC shall not exceed the yearly percentage established by the EBCI Tribal Administration, and shall be in line with what Tribal programs are mandated to abide by for fiscal budget preparation. Any and all salaries, benefits, program expenses, etc. shall be within the fiscal limitations established by the EBCI Tribal Administration.

BE IT FURTHER ORDAINED that all other sections of Cherokee Code Chapter 16-2.13 – Tribal Gaming Commission – shall remain in full force and effect, and that all other ordinances inconsistent with this ordinance are hereby rescinded.

BE IT FINALLY ORDAINED this ordinance shall become effective upon ratification by the Principal Chief.

Submitted by: Solomon “Slick” Saunooke

TABLED

Cherokee Council House
Cherokee, North Carolina
JUL 14 2011

Date

ORDINANCE NO. 785 (2011)

- WHEREAS, the Eastern Band of Cherokee Indians is a Sovereign Indian Nation with the authority to impose taxes on goods and services within its boundaries, and
- WHEREAS, Article I, Section 105 defines the Eastern Band of Cherokee Indians Sales Tax, also known as Tribal Levy, and
- WHEREAS, The Tribal Levy Rate has remained unchanged since the year 2000 despite increasing costs and demands upon Tribal infrastructure and resources, and
- WHEREAS, The state of North Carolina approved a temporary sales tax increase of one percent (1%) in 2009 making the sales tax rate in surrounding counties temporarily higher than that of the Qualla Boundary having a significant impact on the state budget, and
- WHEREAS, An efficiency study conducted in 2009 stated: The Eastern Band of Cherokee Indians should "evaluate the financial and political impact of raising fees, even slightly, in developing areas of the Tribe. EBCI should focus on increasing fees in areas serving large numbers of non-enrolled members.", and
- WHEREAS, priorities have been identified within the current budget for the purpose of levy generation that require changes to the levy rate and funding schedule, to include Greenway's Maintenance, Cherokee Historical Association (CHA), and the "Old High School" property also known as the Acquoni Expo Center.

NOW THEREFORE BE IT ORDAINED, by the Tribal Council of the Eastern Band of Cherokee Indians in council assembled, at which a quorum is present, that Cherokee Code Article I, Section 105-1 – Tribal Levy Imposed be amended to read as follows:

Sec. 105-1 – Tribal Levy imposed.

The Levy which may be imposed under this article is limited to a tax at the rate of seven and one half percent of:

- (a) All retail sales of goods or merchandise by persons or firms trading or conducting business on the Cherokee Indian Reservation; and
- (b) All admission charges made by persons or firms presenting attractions on the Cherokee Indian Reservation, except for admission charges by attractions which are presented by a nonprofit organization.

BE IT FURTHER ORDAINED, by the Tribal Council of the Eastern Band of Cherokee Indians in council assembled, at which a quorum is present, that Cherokee Code Article I, Section 105-5 – Use of Tribal Levy funds be amended to read as follows:

Sec. 105-5. - Use of Tribal Levy funds.

(a) All funds collected by the Eastern Band pursuant to this article shall be deposited promptly into a special bank account in the name of the Eastern Band in a bank designated by the Executive Committee, with the funds insured by the Federal Deposit Insurance Corporation.

(b) Tribal Levy revenues approved for the use of the Fire Department and Police Department, as determined in a needs-based budget approach, shall be deposited in a fund or funds designated for the use of those departments. These funds shall be disbursed in accordance with an annual budget adopted by the Community Services Committee and approved by Tribal Council and shall be limited to the following uses:

(1) To pay necessary expenses of administering and enforcing this Ordinance, including compensation for the Chief, Vice-Chief, and other Tribal employees responsible for administering and enforcing the Tribal Levy Ordinance;

(2) To provide law enforcement and promote public safety on the Cherokee Reservation, including compensation for law enforcement officers;

(3) To provide and maintain fire protection services on the Cherokee Reservation;

(4) To provide street lighting for the Village of Cherokee and in other Reservation communities as may be designated by the Community Services Committee;

(c) A portion of Tribal Levy revenues as determined in a needs-based budget approach shall be allocated to the General Fund as recommended by the Finance Committee and approved by the Tribal Council in the adoption of an annual budget.

(d) A portion of Tribal Levy revenues as determined in a needs-based budget approach shall be allocated to Sanitation providing for garbage collection and disposal systems, as well as providing sanitation facilities and services to foster and protect public health as recommended by the Community Services Committee and approved by the Tribal Council in the adoption of an annual budget.

(e) A portion of Tribal Levy revenues as determined in a needs-based budget approach shall be allocated to the Tribal Marketing and Promotions Fund as approved by the Tribal Council in the adoption of an annual budget.

(f) A portion of Tribal Levy revenues as determined in a needs-based budget approach shall be allocated to the Tribal Education Program as recommended by the Tribal Education Committee and approved by the Tribal Council in the adoption of an annual budget.

(g) A portion of Tribal Levy revenues as determined in a needs-based budget approach shall be allocated to the Tribal Reserve Fund to be utilized only by specific Tribal Council authorization and only in the event of an emergency presented by shortage in Tribal operating funds. The term “emergency” shall not be interpreted to mean shortfalls that could have or should have been reasonably foreseen.

(h) A portion of Tribal Levy revenues as determined in a needs-based budget approach shall be allocated to a Greenway’s Maintenance Fund for the purpose of maintaining the Tribal Greenways systems as approved by Tribal Council in the adoption of an annual budget.

(i) A portion of Tribal Levy revenues as determined in a needs-based budget approach shall be allocated to the Cherokee Historical Association to provide the non-profit with operational support in the perpetuation and preservation of Cherokee history and culture as approved by Tribal Council in the adoption of an annual budget.

(j) A portion of Tribal Levy revenues as determined in a needs-based budget approach shall be allocated to the Acquoni Expo Center, also known as the “old high school property”, for the purposes of maintaining the facility as approved by the Tribal Council in the adoption of an annual budget.

Submitted by the Division of Budget & Finance – Office of the Treasurer.

Sec. 105-1 – Tribal Levy imposed.

The Levy which may be imposed under this article is limited to a tax at the rate of seven and one half percent of:

- (a) All retail sales of goods or merchandise by persons or firms trading or conducting business on the Cherokee Indian Reservation; and
- (b) All admission charges made by persons or firms presenting attractions on the Cherokee Indian Reservation, except for admission charges by attractions which are presented by nonprofit organization.

Sec. 105-5. - Use of Tribal Levy funds.

(a) All funds collected by the Eastern Band pursuant to this article shall be deposited promptly into a special bank account in the name of the Eastern Band in a bank designated by the Executive Committee, with the funds insured by the Federal Deposit Insurance Corporation.

(b) ~~The percentage of the Tribal Levy revenues indicated in subsection (h)~~ approved for the use of the Fire Department and Police Department, as determined in a needs-based budget approach, shall be deposited in a fund or funds designated for the use of those departments. These funds shall be disbursed in accordance with an annual budget adopted by the Community Services Committee and approved by Tribal Council and shall be limited to the following uses:

(1) To pay necessary expenses of administering and enforcing this Ordinance, including compensation for the Chief, Vice-Chief, and other Tribal employees responsible for administering and enforcing the Tribal Levy Ordinance;

Formatted: Indent: Left: 0.5"

(2) To provide law enforcement and promote public safety on the Cherokee Reservation, including compensation for law enforcement officers;

(3) To provide and maintain fire protection services on the Cherokee Reservation;

Formatted: Indent: First line: 0.5"

(4) To provide street lighting for the Village of Cherokee and in other Reservation communities as may be designated by the Community Services Committee;

Formatted: Indent: Left: 0.5"

~~(c) The percentage of the Tribal Levy revenues indicated in subsection (h) to be deposited in the General Fund shall be disbursed in accordance with an annual budget adopted by the Tribal Council for the benefit of the Cherokee Reservation and its residents. The Finance Committee shall make recommendations to the Tribal Council for the use of these funds prior to the adoption of the annual budget by the Tribal Council. A portion of Tribal Levy revenues as determined in a needs-based budget approach shall be allocated to the General Fund as recommended by the Finance Committee and approved by the Tribal Council in the adoption of an annual budget.~~

~~(d) The percentage of the Tribal Levy revenues indicated in subsection (h) to be deposited in the Sanitation Fund shall be disbursed to provide and maintain garbage collection and disposal systems for~~

~~Reservation communities as may be designated by the Community Services Committee; and to provide sanitation facilities and services to foster and protect the public health as may be designated by the Community Services Committee. A portion of Tribal Levy revenues as determined in a needs-based budget approach shall be allocated to Sanitation providing for garbage collection and disposal systems, as well as providing sanitation facilities and services to foster and protect public health as recommended by the Community Services Committee and approved by the Tribal Council in the adoption of an annual budget.~~

~~(e) The percentage of the Tribal Levy revenues indicated in subsection (h) to be deposited in the Tribal Marketing and Promotions Fund shall be disbursed in accordance with a budget adopted by the Travel and Promotion Board and approved by Tribal Council. A portion of Tribal Levy revenues as determined in a needs-based budget approach shall be allocated to the Tribal Marketing and Promotions Fund as approved by the Tribal Council in the adoption of an annual budget.~~

~~(f) The percentage of the Tribal Levy revenues indicated in subsection (h) to be deposited in the Tribal Education Fund shall be disbursed in accordance with a budget adopted by the Tribal Education Committee to assist needy and deserving Cherokee students. A portion of Tribal Levy revenues as determined in a needs-based budget approach shall be allocated to the Tribal Education Program as recommended by the Tribal Education Committee and approved by the Tribal Council in the adoption of an annual budget.~~

~~(g) The percentage of the Tribal Levy revenues indicated in subsection (h) to be deposited in the Tribal Reserve Fund shall be deposited in an interest bearing account and shall be utilized only by specific Tribal Council authorization and only in the event of an emergency presented by shortage in Tribal operating funds. The term "emergency" shall not be interpreted to mean shortfalls that could have or should have been reasonably foreseen. A portion of Tribal Levy revenues as determined in a needs-based budget approach shall be allocated to the Tribal Reserve Fund to be utilized only by specific Tribal Council authorization and only in the event of an emergency presented by shortage in Tribal operating funds. The term "emergency" shall not be interpreted to mean shortfalls that could have or should have been reasonably foreseen.~~

~~(h) Commencing on October 1, 2004, Tribal Levy revenues shall be allocated as follows:~~

Program	Percentage of Tribal Levy Revenues
Fire Department	6.5%
Police Department	39.5%
General Fund	10.0%
Sanitation	13.0%

Marketing and Promotions	31.0%
Tribal Education	0.0%
Reserve Fund	0.0%
TOTAL	100%

A portion of Tribal Levy revenues as determined in a needs-based budget approach shall be allocated to a Greenway's Maintenance Fund for the purpose of maintaining the Tribal Greenways systems as approved by Tribal Council in the adoption of an annual budget

(i) A portion of Tribal Levy revenues as determined in a needs-based budget approach shall be allocated to the Cherokee Historical Association to provide the non-profit with operational support in the perpetuation and preservation of Cherokee history and culture as approved by Tribal Council in the adoption of an annual budget.

(i) A portion of Tribal Levy revenues as determined in a needs-based budget approach shall be allocated to the Acquoni Expo Center, also known as the "old high school property", for the purposes of maintaining the facility as approved by the Tribal Council in the adoption of an annual budget.

Formatted: Font: Not Italic

TABLED

Cherokee Council House
Cherokee, Qualla Boundary (NC)

Date: JUL 14 2011

ORDINANCE NO. 786 (2010)

WHEREAS, the Eastern Band of Cherokee Indians has the inherent and sovereign authority to make and change the laws that govern it and its membership; and

WHEREAS, from time to time it is necessary to make changes to laws to become current in modern practices and the administration of justice.

NOW THEREFORE, BE IT ORDAINED by the Tribal Council of the Eastern Band of Cherokee Indians assembled, at which a quorum is present, that the following changes shall be made to the laws below and the amended Cherokee Code shall read as follows:

Sec. 7-1. Composition of the Judicial Branch.

(d) The Court shall maintain a list of temporary justices, judges and magistrates available for assignment to particular cases or duties by the Chief Justice. Prior to assignment by the Chief Justice, temporary Justices, and Judges, must be nominated and confirmed in accordance with subsection (c) of this section.
(Ord. No. 29, 4-1-2000)

Deleted: j

Deleted: j

Deleted: or magistrates

Comment [b1]: Don't we really only need to take out the word magistrate?

Sec. 7-3. Powers and Duties of the Judicial Branch.

(a) The judicial power shall be vested in the Judicial Branch. The Judicial Branch shall have the power to interpret and apply the Charter, laws, customs, and traditions of the Eastern Band of Cherokee Indians. The Chief Justice of the Supreme Court shall administer the Judicial Branch.

(b) The Judicial Branch shall develop a system of precedent based on the common law, customs, and traditions of the Eastern Band of Cherokee Indians. The Judicial Branch shall not adjudicate the same matter twice. The Judicial Branch shall have the power to assess fees and costs in accordance with law.

(c) The Judicial Branch shall make projections of judicial revenues and propose an annual budget for the Judicial Branch. The Chief Justice shall have the power to administer funds appropriated by law for the Judicial Branch.

(d) With the exception of appointed Judges, Justices and temporary justices, judges and magistrates, the Judicial Branch personnel shall have all rights afforded to tribal employees and be, subject to the Tribe's personnel policies and procedures except that personnel hired by the Judicial Branch shall not require approval by the executive committee. Approvals for hiring Judicial Branch personnel shall lie solely with the Chief Justice.
(Ord. No. 29, 4-1-2000)

Deleted: and

Comment [b2]: Since temporaries are contract only, aren't they outside the tribe's personnel p and p?

Deleted: be

Deleted: who are

Sec. 15-1. Search warrants.

(a) Every judge of the Cherokee Courts shall have authority to issue warrants for search and seizure of any premises or property within the jurisdiction of the Eastern Band of Cherokee Indians.

Deleted: of Indian Offenses

Comment [h3]: Jurisdiction of the Cherokee court can't be made until the person appears in court and answers questions re: indian-ness. So isn't it more accurate to say that search and seizure is about location within our "jurisdiction" not personal jurisdiction. Right?

(e) No member of the Cherokee Indian Police shall search or seize any property without a warrant unless he shall have reasonable cause to believe that a legal exception to the warrant requirement exists.

Deleted: the

Deleted: and

Sec. 15-4. Probation Officer.

(a) The position of Probation Officer is hereby authorized and created.

Comment [b4]: How about "w/in Indian Country under the sovereign control of the EBCI?"

(b) Such person shall maintain records for all persons convicted of misdemeanors or felonies in the Cherokee Court who are assigned to probation as a part of their judgment and shall assign and supervise the community service work for all such persons.

Deleted: of all Tribal members and all other persons subject to the jurisdiction of the court.

(c) Persons assigned to community services shall perform work for the benefit of the Tribe and community. (d) The position of Probation Officer shall be funded through the Cherokee Courts.

Comment [h5]: Don't you think is more accurate? Also, we're not charging CFR crimes are we? We don't need CFR correct?

(Res. No. 187, 3-22-1982)

Comment [b6]: How about "under Cherokee or Federal law"?

Sec. 15-5. Community Services program.

(a) The Cherokee Courts shall administer a community services program.

Deleted: the person in possession of such property is engaged in the commission of an offense under the Code of Federal Regulations or under Tribal law.¶

(b) The program may assume jurisdiction over and responsibility for individuals released by courts of the United States and the State of North Carolina upon such agreements with those probation offices and under the terms of such agreements.

Deleted: and Work Detail Supervisor

(Res. No. 87, 1-8-1976)

Comment [b7]: We will soon have felony convictions, so can't we just leave this out?

Deleted: work detail

Deleted: work detail

Deleted: including, but not limited to: clean Police Department vehicles and grounds; clean and maintain the grounds, parking lot, and roadways to the Cherokee Hospital; clean and maintain roadsides throughout the Cherokee Indian Reservation; clean and maintain the grounds of the Cherokee Civic Center; cut and deliver wood to the elderly and invalids residing on the Reservation.¶

Deleted: Community Service funds

Deleted: Pretrial release and adult rehabilitation

Deleted: Tribe

Deleted: Pretrial Release and Adult Delinquent Rehabilitation Program under the supervision of the Community Services Committee of the Tribal Council

Deleted: will

Deleted: (c) The program shall be administered in accordance with guidelines approved by the Law Enforcement Assistance ... [1]

Submitted by: Tribal Court

(c) The program shall be administered in accordance with guidelines approved by the Law Enforcement Assistance Administration.

TABLED

Cherokee Council House
Cherokee, Qualla Boundary (NC)

Date: JUL 14 2011

ORDINANCE NO. 787 (2011)

WHEREAS, the Eastern Band of Cherokee Indians is a sovereign entity with the authority and powers to establish and regulate membership and enrollment in the Tribe; and

WHEREAS, in 1995 Tribal Council established Cherokee Code Chapter 49 to govern membership in the Tribe; and

WHEREAS, Cherokee Code §49-5(g) imposed a temporary cessation of Enrollment until determined appropriate, except for children ages 0-3 and adults 18-19 years old, set to expire within one year or upon completion of the Enrollment Audit; and

WHEREAS, such temporary cessation expired on June 8, 2011; and

WHEREAS, in furtherance of the protection of the Tribe's membership the Enrollment Committee has determined that it would be advantageous to reinstate a permanent age requirement for enrollment purposes.

NOW THEREFORE BE IT ORDAINED by the Tribal Council of the Eastern Band of Cherokee Indians, in Council assembled, at which a quorum is present, that Cherokee Code Section 49-2 is amended to read as follows:

Sec. 49-2. Qualifications for enrollment.

[Subsections (a) through (c) remain unchanged]

(d) All direct lineal descendants of persons identified in §49-2(a) who apply for membership after December 1, 2011, who possess at least 1/16 degree of Eastern Cherokee Indian blood, and apply for enrollment prior to their nineteenth (19th) birthday. This section does not apply to adopted individuals.

(e) All Direct lineal descendants of persons identified in §49-2(a) who have been legally adopted outside the membership of the Eastern Band of Cherokee Indians, who apply for membership after December 1, 2011 and who possess at least 1/16 degree of Eastern Cherokee Indian blood, provided they:

(1) were legally adopted as infants;

(2) have lived their entire lives in a place sufficiently removed from the Qualla Boundary to preclude their contact with or knowledge of the Tribe; and

(3) were unaware of their eligibility for membership in the Tribe.

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

Submitted by the Enrollment Committee of the Eastern Band of Cherokee Indians.

Sec. 49-5. - Applications for enrollment.

- (a) *Who must file.* All persons who meet the membership requirements contained in section 49-2 but who are not listed on the membership roll of the Eastern Band of Cherokee Indians, who request membership in the Eastern Band of Cherokee Indians must file an enrollment application. Applications for minors or incompetents may be filed by parents, guardians, or other sponsors such as social workers. No one will be considered for enrollment unless an enrollment application has been filed by the individual or a sponsor.
- (b) *When and where to file an application.* All enrollment applications must be filed with the Enrollment Clerk or such other person as may be designated by the membership committee of the Eastern Band of Cherokee Indians. Application forms may be obtained by oral or written request from the Eastern Band Tribal Enrollment Office. Applications for membership may be filed at any time. There are deadlines for applications to be considered for inclusion in distribution of per capita payments.
- (1) In order to be considered for the per capita payment to be distributed in December of any year, applications and all documentation required to establish lineage and blood degree must be received by September 15 of the same year as the per capita payment.
 - (2) In order to be considered for the per capita distribution payment to be distributed in June of any year, applications and all documentation required to establish lineage and blood degree must be received by March 15 of the same year as the per capita payment.
 - (3) Any applications received after September 15 or March 15, or any applications received before September 15 or March 15 without all the required documentation, will be processed for consideration for inclusion on the membership roll to be used for distribution of subsequent per capita payments.
- (c) *What the application must contain.* Each enrollment application must be completed in its entirety and must contain sufficient personal information to properly determine the applicant's eligibility for enrollment. Applications must show the following:
- (1) All names by which the applicant is known;
 - (2) The address of the applicant;
 - (3) The applicant's degree of Eastern Cherokee blood;
 - (4) The names of Eastern Cherokee ancestors whose names appear on the 1924 Baker Roll of the Eastern Band, together with the names of Eastern Cherokee ancestors in generations between that roll and the applicant;
 - (5) The name of the Tribe and degree of Indian blood of any Tribe other than Eastern Cherokee, as certified by other Tribe;
 - (6) The Social Security Number and a copy of the Social Security card of the applicant or a copy of the completed application for a Social Security card. An application shall not be considered incomplete due solely to a delay by the Social Security Administration in issuing Social Security cards;
 - (7) The county and state of birth and a county certified birth certificate (state certified birth certificates will only be accepted when the county does not issue birth certificates);
 - (8) The status of natural or adopted applicant;
 - (9) The signature of the applicant or sponsor;
 - (10) The date of the filing of the application; and
 - (11) A completed, signed, and dated IRS Form W-9.
 - (12) The results of a DNA test, from a lab acceptable to the Enrollment Committee, establishing the probability of paternity and/or maternity by the parent(s) through whom lineage is claimed for an applicant.
- (d) *Proof of lineage.* The burden of proof is on the applicant. The application for membership must be accompanied by: a County certified birth certificate issued by the appropriate governmental entity where the birth occurred, and the certified results of a DNA test establishing the probability of paternity and/or maternity of the applicant from a lab acceptable to the Enrollment Committee.
- (1) DNA Testing Requirements:
 - (a) Testing must occur directly between the applicant and the alleged mother and father unless the parent is unavailable for testing through no fault of the applicant.
 - (b) When a parent of an applicant is unavailable for DNA testing the Enrollment Committee may accept the certified results of a DNA test between the applicant and both of the missing parent's biological parents (applicant's grandparents) to establish the probability of relatedness to the grandparents.
 - (c) A certified copy of the test results must be submitted by the testing lab directly to the Enrollment Office.
 - (d) The applicant is responsible for all fees related to the DNA test.
 - (e) DNA testing required for all applicants, including adoptees.

(2) In addition, the Enrollment Committee may, at its discretion, require the submission of one or more of the following documents to establish to its satisfaction that the applicant has the lineage and blood quantum required by Tribal law:

(a) Documentary evidence of an adoption.

(b) Other documents which are needed for a specific applicant.

(e) *Adopted Eastern Band of Cherokee Indians child.* An adopted person's eligibility for enrollment is determined through one or both of the natural parents. Documentary evidence submitted to support an adopted person's application for enrollment must show relationship to the natural parent through whom eligibility for enrollment is determined. The information shall be contained in locked file cabinets, and adequate safeguards shall be installed to ensure that the confidentiality of these records shall not be violated.

(f) *Adoptions by this Tribe of Indian children from other federally recognized Indian Tribes.* It is recognized that some persons have been adopted into membership in the Eastern Band of Cherokee Indians pursuant to Tribal Resolution 381 (1977) and that such persons are entitled to retain their membership. However, Resolution No. 381 (1977) is hereby rescinded as of the effective date of this amendment to the enrollment ordinance (8-9-1996), and persons who do not possess the required lineage and the required degree of Eastern Cherokee Indian blood shall not be adopted into membership regardless of their degree of other Tribal blood or their status as legally adopted children of Eastern Band members.

(g) *Temporary cessation of enrollment until determined appropriate.*

(1) Tribal enrollment, with the exception of newborns to three years of age, and 18 to 19 year olds, will cease until the enrollment audit process is complete.

(2) Tribal enrollment will resume upon completion of enrollment audit process, or within one year or less.

(Ord. No. 284, 8-2-1996; Ord. No. 566, 1-12-2001; Ord. No. 670, 4-6-2001; Ord. No. 277, 6-8-2010)



TABLED

Cherokee Council House

Cherokee, North Carolina

JUL 14 2011 Date

Ordinance No 788

WHEREAS, The Cherokee Fire Department has seen the need to modernize the Fire Codes to insure the safety for the public and its tribal members ; and

WHEREAS, The Cherokee Fire Department has proposed guidelines for annual inspection and Fire codes similar to Asheville's codes and rates which are attached this ordinance, and

WHEREAS, The Budget and Finance has requested that the businesses be given an appeal process and added an reference to this ordinance to Section 106-22. APPEALS. and

WHEREAS, The revenue generated from the inspection fees should cover any additional cost related to annual inspections, and

Now Therefore, Be it Ordained, by Tribal Council of The EBCI, assembled in Council at which a quorum is present, that chapter 143.10 is amended to include the include fees ; and permit and code compliance.

Now Therefore it Be Finally Resolved; That the Principal Chief along with the Finance Office carry out the intent of these amendments to chapter 143-10

Submitted by B&F office for the Cherokee Fire Department's Steve Smith.

Sec. 143-10. Fire Prevention Code and Protection.

(a) The Eastern Band of Cherokee Indians adopts the ~~Standard~~ North Carolina State Building Code Fire Prevention Code (and any amendments), as recommended for by North Carolina ~~by the Southern Building Code Congress International~~ and the NFPA 101, Life Safety Code (and any amendments), as recommended by the National Fire Protection Association (NFPA), which shall apply to all commercial construction and commercial buildings on the Cherokee Indian Reservation. Including lands being held in trust for the Eastern Band of Cherokee Indians.

(b) The Community Services Committee is empowered to consult with the Fire Marshals and/or fire chief to set a schedule of fines and other civil penalties for violation of the North Carolina Fire Prevention Code. Such fines may be amended from time to time after further consultation with the Fire Marshals and/or Fire Chief

(c) The Fire Marshals ~~have~~ has full authority to impose fines and other civil penalties by issuing violation tickets in accordance with Tribal law and the schedule of fines then in force. Payments of fines by person(s) or entity(ies) found to be in violation shall be made to the Tribal finance office.

(d) The Office of Attorney General shall be authorized to collect any fines or civil penalties remaining unpaid after 60-days' notice by civil action in the Cherokee court.

(e) The Tribal Business Committee shall be authorized to terminate a violator's traders Business/Traders Permit or other business license based on failure or refusal to pay the assessed fine or civil penalty, after giving notice and an opportunity to be heard under Sec.106-22.

(f) The Tribe has the sovereign authority to regulate commerce on Tribal land and to issue permits and licenses to conduct businesses on Tribal land.

(g) The Fire Marshal shall have the full authority to impose annual or by-monthly inspections and investigate complaints of non-compliance including a fee schedule and certificate of compliance permit form approved by the Tribal Business Committee.

(h) Power to close businesses in violation of this Article. If a person or entity conducts business on Tribal land without a valid, current business fire permit or after expiration of a permit without applying for renewal, the Revenue Officer will provide notice and 30 days in which to cure the breach. If a cure is not provided within that 30 day period, the Revenue Officer shall notify the Business Committee, which may take appropriate action to obtain compliance with this chapter, including appeals and directing the Chief of the Cherokee Police Department to close the business and Superintendent of the Cherokee Indian Agency to cancel any property lease.

(Res. No. 973, 2-16-1966; Ord. No. 139, 4-17-2000; Ord. No. 290, 7-17-2000)

(Ord. No. 624, 3-30-2005)

City of Asheville Fire Department
 Adopted Professional Services User Fees for FY 10-11

**A. FEES FOR STATE MANDATED PERIODIC FIRE INSPECTIONS
 ORDINARY RISK OCCUPANCIES – inspected and fees charged every 36 months**

Ordinary Risk Occupancies: Uses that have an average probability of a fire or other emergency occurring due to type and/or quantity of materials stored, used, or handled on site, or because of processes typically performed in business operations. Additionally, these occupancies would have an average risk of injury or death to the occupants in a fire or other emergency.

	First Inspection Fee	Reinspection Fee if all Violations Cleared	Reinspection fee if violations NOT Cleared	Second Reinspection Fee if all Cleared	Second Reinspection Fee if NOT Cleared
<u>1. Small Assembly - Group A</u>					
a. Capacity 50-99	\$75.00	\$0.00	\$150.00	\$0.00	\$300.00
<u>2.1 Business – Group B</u>					
<u>2.2 Mercantile – Group M</u>					
<u>2.3 Storage – Group S</u> (see footnote 12)					
<u>2.4 Utility – Group U</u> (see footnote 12)					
a. Less than 501 sq. ft.	\$25.00	\$0.00	\$50.00	\$0.00	\$100.00
b. 501 to 2,500 sq. ft.	\$75.00	\$0.00	\$150.00	\$0.00	\$300.00
c. 2,501 to 10,000 sq. ft.	\$125.00	\$0.00	\$250.00	\$0.00	\$500.00
d. 10,001 to 20,000 sq. ft.	\$175.00	\$0.00	\$350.00	\$0.00	\$700.00
e. 20,001 to 40,000 sq. ft.	\$225.00	\$0.00	\$450.00	\$0.00	\$900.00
f. 40,001 to 80,000 sq. ft.	\$275.00	\$0.00	\$550.00	\$0.00	\$1,100.00
g. 80,001 to 120,000 sq. ft.	\$325.00	\$0.00	\$650.00	\$0.00	\$1,300.00
h. 120,001 to 150,000 sq. ft.	\$375.00	\$0.00	\$750.00	\$0.00	\$1,500.00
i. 150,001 to 200,000 sq. ft.	\$425.00	\$0.00	\$850.00	\$0.00	\$1,700.00
j. 200,001 sq. ft. plus	\$500.00	\$0.00	\$1,000.00	\$0.00	\$2,000.00

City of Asheville Fire Department
 Adopted Professional Services User Fees for FY 10-11

**B. FEES FOR STATE MANDATED PERIODIC FIRE INSPECTIONS
 MODERATE RISK OCCUPANCIES – inspected and fees charged every 24 months**

Moderate Risk Occupancies: Uses that have an average probability of a fire or other emergency occurring, but due to the type and/or quantity of materials stored, used, or handled on site, or because of processes typically performed in their operations, a fire may be more intense or the emergency more severe. Additionally, these occupancies would have a higher than average risk of injury or death to the occupants in a fire or other emergency due to occupants' age and/or presence of higher fire risk processes.

	First Inspection Fee	Reinspection Fee if all Violations Cleared	Reinspection fee if violations NOT Cleared	Second Reinspection Fee if all Cleared	Second Reinspection Fee if NOT Cleared
1.1 Educational Group E – Private Schools (See footnote 9 for Public Schools)					
1.2 Factory – Industrial – Group F					
a. Less than 501 sq. ft.	\$25.00	\$0.00	\$50.00	\$0.00	\$100.00
b. 501 to 2,500 sq. ft.	\$75.00	\$0.00	\$150.00	\$0.00	\$300.00
c. 2,501 to 10,000 sq. ft.	\$125.00	\$0.00	\$250.00	\$0.00	\$500.00
d. 10,001 to 20,000 sq. ft.	\$175.00	\$0.00	\$350.00	\$0.00	\$700.00
e. 20,001 to 40,000 sq. ft.	\$225.00	\$0.00	\$450.00	\$0.00	\$900.00
f. 40,001 to 80,000 sq. ft.	\$275.00	\$0.00	\$550.00	\$0.00	\$1,100.00
g. 80,001 to 120,000 sq. ft.	\$325.00	\$0.00	\$650.00	\$0.00	\$1,300.00
h. 120,001 to 150,000 sq.ft.	\$375.00	\$0.00	\$750.00	\$0.00	\$1,500.00
i. 150,001 to 200,000 sq.ft.	\$425.00	\$0.00	\$850.00	\$0.00	\$1,700.00
j. 200,001 sq. ft. plus	\$500.00	\$0.00	\$1,000.00	\$0.00	\$2,000.00
2.1. Educational Group E – Public Schools (See footnote 9 for Public Schools)					
a. Each school site	\$250.00	\$0.00	\$500.00	\$0.00	\$1,000.00

City of Asheville Fire Department
 Adopted Professional Services User Fees for FY 10-11

**C. FEES FOR STATE MANDATED PERIODIC FIRE INSPECTIONS
 HIGH RISK OCCUPANCIES – inspected and fees charged every 12 months**

High Risk Occupancies: Uses that have a higher than average probability of a fire or other emergency occurring due to type and/or quantity of materials stored, used, or handled on site, or because of processes typically performed in business operations. Additionally, these occupancies would include those that have a higher than average risk for injury or death to occupants due to age, physical or mental abilities, occupant load, or size and complexity of structure.

	First Inspection Fee	Reinspection		Reinspection		Second Reinspection		
		Fee if all Violations Cleared	Fee if violations NOT Cleared	Fee if all Reinspection Cleared	Fee if NOT Reinspection Cleared			
1. Large Assembly - Group A (see footnote 11)								
a. Capacity 100-200	\$125.00	\$0.00	\$250.00	\$0.00	\$500.00	\$0.00	\$500.00	
b. Capacity 201-300	\$175.00	\$0.00	\$350.00	\$0.00	\$700.00	\$0.00	\$700.00	
c. Capacity 301-400	\$225.00	\$0.00	\$450.00	\$0.00	\$900.00	\$0.00	\$900.00	
d. Capacity 401-500	\$275.00	\$0.00	\$550.00	\$0.00	\$1,100.00	\$0.00	\$1,100.00	
e. Capacity 501-600	\$325.00	\$0.00	\$650.00	\$0.00	\$1,300.00	\$0.00	\$1,300.00	
f. Capacity 601-plus	\$375.00	\$0.00	\$750.00	\$0.00	\$1,500.00	\$0.00	\$1,500.00	
2.1 Educational Group E - Day Care								
2.2 Institutional Group I, R-4, and R-3 Group Homes								
a. Licensed for 0-25	\$75.00	\$0.00	\$150.00	\$0.00	\$300.00	\$0.00	\$300.00	
b. Licensed for 26 – 50	\$125.00	\$0.00	\$250.00	\$0.00	\$500.00	\$0.00	\$500.00	
c. Licensed for 51-100	\$175.00	\$0.00	\$350.00	\$0.00	\$700.00	\$0.00	\$700.00	
d. Licensed for 101-150	\$225.00	\$0.00	\$450.00	\$0.00	\$900.00	\$0.00	\$900.00	
e. Licensed for 151-175	\$275.00	\$0.00	\$550.00	\$0.00	\$1,100.00	\$0.00	\$1,100.00	
f. Licensed 176 plus	\$500.00	\$0.00	\$1,000.00	\$0.00	\$2,000.00	\$0.00	\$2,000.00	
g. Hospitals – Per Building	\$500.00	\$0.00	\$1,000.00	\$0.00	\$2,000.00	\$0.00	\$2,000.00	

**City of Asheville Fire Department
Adopted Professional Services User Fees for FY 10-11**

3. Hazardous - Group H			
a. Less than 501 sq. ft.	\$25.00	\$50.00	\$0.00
b. 501 to 2,500 sq. ft.	\$75.00	\$150.00	\$0.00
c. 2,501 to 10,000 sq. ft.	\$125.00	\$250.00	\$0.00
d. 10,001 to 20,000 sq. ft.	\$175.00	\$350.00	\$0.00
e. 20,001 to 40,000 sq. ft.	\$225.00	\$450.00	\$0.00
f. 40,001 to 80,000 sq. ft.	\$275.00	\$550.00	\$0.00
g. 80,001 to 120,000 sq. ft.	\$325.00	\$650.00	\$0.00
h. 120,001 to 150,000 sq. ft.	\$375.00	\$750.00	\$0.00
i. 150,001 to 200,000 sq. ft.	\$425.00	\$850.00	\$0.00
j. 200,001 sq. ft. plus	\$500.00	\$1,000.00	\$0.00
4. Residential (see footnote 5 and 13)			
Group R-1 Number of Sleeping Rooms			
a. 1-30	\$75.00	\$150.00	\$0.00
b. 31-50	\$125.00	\$250.00	\$0.00
c. 51-75	\$175.00	\$350.00	\$0.00
d. 76-99	\$225.00	\$450.00	\$0.00
e. 100-125	\$275.00	\$550.00	\$0.00
f. 126-175	\$325.00	\$650.00	\$0.00
g. 176-199	\$375.00	\$750.00	\$0.00
h. 200-250	\$425.00	\$850.00	\$0.00
i. 251 plus	\$500.00	\$1,000.00	\$0.00
R-2 Buildings (inspection of common use areas only)			
j. 1 to 5	\$75.00	\$150.00	\$0.00
k. 6 to 10	\$125.00	\$250.00	\$0.00
l. 11 to 20	\$175.00	\$350.00	\$0.00
m. 21 to 30	\$225.00	\$450.00	\$0.00
n. 31 to 40	\$275.00	\$550.00	\$0.00
o. 41 plus	\$325.00	\$650.00	\$0.00
5. High-Rise (inspection of common use/service areas only)			
a. Common Areas	\$250.00	\$500.00	\$0.00
			\$1,000.00

City of Asheville Fire Department
 Adopted Professional Services User Fees for FY 10-11

D. FEES FOR NEW CONSTRUCTION INSPECTION SERVICES

Fees for new construction inspection services are identified with the Building Safety Department's fee schedule as an integral component of City Government's Development Services Center.

E. FEES FOR ADOPTED STATE FIRE CODE PERMITS

<u>Code</u>	<u>Section/Title</u>	<u>Permit Fees</u>
1.	105.6.4 Carnivals and fairs	\$100.00/event
2.	105.6.9 Covered mall buildings	\$500.00/year
3.	105.6.14 Explosives	\$50.00/48 hours or \$100.00/30 days
4.	105.6.14 Use of Outdoor Fireworks (Does not include standby apparatus or personnel)	\$100.00/event or \$500.00/event After 5 th permit issued in fiscal year
4.	105.6.16 Flammable liquids (Items 5-10)	\$50.00
5.	105.6.19 Fumigation and thermal insecticidal fogging	\$100.00
6.	105.6.26 Liquid- or gas-fueled vehicles or equipment in assembly buildings	\$50.00

**City of Asheville Fire Department
Adopted Professional Services User Fees for FY 10-11**

7.	105.6.30-32	Open burning and open flame use	\$50.00
8.	105.6.36	Pyrotechnics Special Effects	\$50.00
9.	105.6.43	Fireworks Tent	\$300.00/30 days
10.	105.6.43	Assembly Tent	Follow Assembly Inspection Fee Schedule in Section A or C
11.	105.6.43	All Other Tents Requiring a Permit	\$50.00/30 days
12.	105.6.XX	Any other operational permits not listed above and required by the NC Fire Code	\$50.00

F. DEDICATED SERVICES OF FIRE AND RESCUE PERSONNEL

Appropriate personnel and apparatus necessary for a requested or required service will be determined by the Fire and Rescue Chief. A written agreement of the supplemental service will be in place prior to AFR providing any services, or may be used by the judicial system as necessary.

Rank/Band Required for Duty Hourly rate or portion of any hour (two hour minimum)

1. Firefighter	\$30.00
2. Senior Firefighter	\$35.00
3. Engineer	\$40.00
4. Specialist	\$45.00
5. Company Officer	\$50.00
6. Chief Officer	\$55.00

City of Asheville Fire Department
 Adopted Professional Services User Fees for FY 10-11

G. DEDICATED STANDBY OF EMERGENCY APPARATUS

<u>Apparatus Required for Duty</u>	<u>Hourly rate or portion of any hour</u>
1. Support vehicle	\$ 25.00
2. Light duty quick response vehicle, boat	\$ 50.00
3. Fire Engine	\$200.00
4. Rescue Truck or Quint	\$250.00
5. Ladder Truck	\$300.00

Footnotes for Sections "A", "B", and "C":

1. For Multi-occupancy buildings, other than residential or institutional, fees are per occupancy.
2. For single buildings where there are more than four occupancies, all occupants agree to a continuing inspection date, and a single invoice is paid through the building owner(s) or agent, a 33.3% discount on the first inspection fee is available. NO discounts are available on reinspections due to non-compliance.
3. For multiple buildings owned by the same owner(s) the fees are per building as defined by the NC State Building Code.
4. Subsequent reinspections beyond the second reinspection with violations not cleared will result in doubled fees with each necessary reinspection of continuing violations, with no fee cap.
5. High-rise buildings shall be assessed a fee for the common use areas per section C5.
6. Inspections will match the State mandated minimum inspection frequency. The Fire Chief can authorize a specific occupancy classification to be inspected more frequently, but not less frequently.
7. At the time of the periodic inspection for the occupancy or business operation, if an operational permit is required, that permit fee is included with the periodic inspection fee for that permit type.
8. Occupancies that are current with fire inspection fees as outlined above are not charged staff time for staff fire safety training. Occupancies that are not current or not covered by the above fee schedule will be charged according to the hourly rate fee schedule for staff fire safety training.
9. Asheville City public schools are inspected every six months, as required by state statute; however, these fees are billed on an annual basis. All Buncombe County owned school buildings are inspected by Buncombe County Government.
10. Premises, complexes, and/or uses that are not covered by the above fee schedule will be charged according to the hourly rate fee schedule for the specialist rank.
11. Large assembly occupancies used primarily for worship and that are not used for exhibition or display purposes are inspected on a 36 month schedule regardless of occupant load, in accordance with the North Carolina State Fire Code.
12. Parking garages, greenhouses, sheds, stables, tanks, and towers will be charged according to the hourly rate fee schedule for the specialist rank.
13. Accessory buildings, such as clubhouses, maintenance sheds, etc, are inspected independently based on their occupancy type.