

TABLED

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

Date: DEC 03 2020

ORDINANCE NO. 343 (2020)

An ordinance to amend C.C. §18B-200 to reduce the size of the Tribal Alcoholic Beverage Control Commission ("TABCC") from five commissioners to three.

WHEREAS, the Tribal Alcoholic Beverage Control Commission ("TABCC") is established in C.C. § 18B-200; and

WHEREAS, the TABCC has five members, consisting of one chairman and four associate members, all of whom are enrolled members of the EBCI appointed by the Principal Chief subject to approval by Tribal Council; and

WHEREAS, the TABCC was created in 2009 and since then has worked through the interim commission period referenced in C.C. § 18B-200(c) and has matured as the entity responsible for regulating alcoholic beverage sales on Tribal lands; and

WHEREAS, the regulatory authority of the TABCC is appropriately limited and is well-defined in Tribal ordinance; and

WHEREAS, the TABCC does not need to have five members and the Tribe would be served just as well by reducing the TABCC to three members.

NOW THEREFORE BE IT ORDAINED by the Eastern Band of Cherokee Indians in Tribal Council assembled, at which a quorum is present, that C.C. § 18B-200, governing the Tribal Alcoholic Beverage Control Commission, shall be amended to read as follows:

Sec. 18B-200. - Tribal Alcoholic Beverage Control Commission.

(a) *Creation of Commission; compensation.* The Tribal Alcoholic Beverage Control Commission is created to consist of a chairman and ~~four~~ two associate members. The Commissioners shall receive compensation and benefits at a level determined by Tribal Council resolution. This compensation shall be included in the Commission's annual budget. Commissioners shall be reimbursed for actual expenses incurred on Commission business, including necessary travel expenses.

(b) *Appointment of members.* Members of the Commission shall be appointed by the Principal Chief subject to approval by Tribal Council. Nominees to the Commission shall be enrolled members and selected on the basis of their commitment to the interests and goals of the Commission without forgetting the interests of the Cherokee community, their preparedness

1 to assume responsibility for the decisions of the Commission and to ensure that said decisions
2 are implemented, and their willingness to devote the time and energy necessary to familiarize
3 themselves with the strategic, financial and operational issues facing the Commission.

4 (c) *Terms of members.* The Interim Commission shall serve for a term of two years. Following
5 the expiration of the Interim Commission's term, the Principal Chief shall appoint five
6 Commissioners for a term of four years, four years, three years, two years and one year
7 respectively and at least one appointee will be from the Interim Commission. The
8 Commissioner shall elect their own officers at the start of each fiscal year. Thereafter, all
9 Commission members shall be appointed to terms of four years and the established staggered
10 terms shall continue for each Commission position for future new, renewal or replacement
11 appointments. All Commission members may be removed for cause by a majority vote of the
12 Tribal Council. Nothing in this chapter shall be construed to preclude a member of the
13 Commission from serving successive terms. Notwithstanding any other provision of this C.C.
14 Chapter 18B, on and after December 1, 2020 the Commission shall consist of three members,
15 one of whom shall be chairman and two of whom shall be associate commissioners. To
16 accommodate the reduction from five members to three, the seats of the first two
17 commissioners whose terms expire on or after December 1, 2020, shall not be re-filled.

18 (d) *Vacancy.* The Principal Chief shall fill any vacancy on the Commission by appointing a
19 successor within 30 days after the date on which the vacancy becomes effective subject to
20 approval by Tribal Council. If the Chairman's seat becomes vacant, the Vice Chairman shall
21 immediately assume the Chairman's seat and complete the remaining term of the vacating
22 Chairman. A new member of the Commission will be appointed by the Principal Chief, subject
23 to approval by Tribal Council, to complete the remaining term of the former Vice Chairman.
24 The Commission will then elect a new Vice Chairman.

25 (e) *Employees.* The chairman is authorized to employ, discharge, and otherwise supervise
26 subordinate personnel of the Commission.

27 (f) *Independence.* In all matters within its purview and responsibilities, the Commission shall
28 be and shall act independently and autonomously from the Principal Chief, Tribal Council,
29 the Tribal Gaming Commission and the Tribal Casino Gaming Enterprise. No prior or
30 subsequent review by the Principal Chief, Tribal Council, the Tribal Gaming Commission or
31 the Tribal Casino Gaming Enterprise shall be required or permitted, except as otherwise
32 explicitly provided in this chapter.

33 (g) *Sovereign Immunity of the Commission.* The Commission, as an instrumentality of the Tribe,
34 retains all of the Tribe's rights, privileges and immunities, including sovereign from suit.

35 (h) *Oath of Office.* Prior to beginning their official duties, each member of the Commission shall
36 take the following oath before some officer authorized to administer oaths: "I do solemnly
37 swear (or affirm) that I will faithfully execute the duties of Commissioner as a member of the
38 Tribal Alcoholic Beverage Control Commission and will to the best of my ability, preserve,
39 protect and defend the charter and governing document and laws confirmed and ratified by
40 the enrolled members of the Eastern Band of Cherokee Indians. I do solemnly swear (or
41 affirm) that I have not obtained my appointment to this Commission by bribery or any undue
42 or unlawful means or fraud, and that in all measures which may come before me, I will so
43 conduct myself as in my judgment shall appear most conducive to the interest and prosperity
44 of the Eastern Band of Cherokees."

1 (i) All Commissioners will be subject to initial and subsequent random drug testing per the
2 Tribal personnel policy. Refusal to submit to any drug testing or a positive test result shall
3 result in an immediate dismissal from the Commission. Drug testing shall be paid from the
4 annual budget of the Commission.

5 (j) All Commissioners are subject to the same criminal background checks as TCGE and TGC
6 employees. Each Commissioner is required to update their information.

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8 BE IT FINALLY ORDAINED that all ordinances that are inconsistent with this ordinance are
9 rescinded, and that this ordinance shall become effective when ratified by the
10 Principal Chief.

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13 *Submitted by Richard G. Sneed, Principal Chief*