



April 20, 2015

By First Class Mail

Rick Saunooke, Acting Executive Director  
P.O. Box 2189  
776 Casino Drive  
Cherokee, NC 28719

Re: *Eastern Band of Cherokee Indians Class II and Class III Gaming Ordinance Amendment, Ordinance Numbers 23, 167, 337, and 451.*

Dear Acting Executive Director Saunooke:

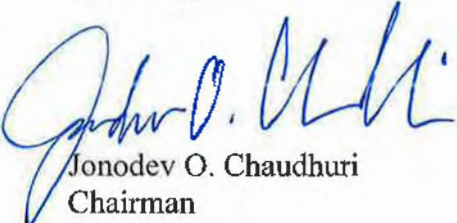
This letter responds to your predecessor, Patrick Lambert's, request, on behalf of the Cherokee Tribal Gaming Commission ("Tribe"), for the National Indian Gaming Commission ("NIGC") Acting Chairman to review and approve amendments to the Tribe's gaming ordinance.

The Tribe's submission was composed of four separate amendments that were passed by the Tribal Council through Ordinance Numbers 23, 167, 337, and 451. Ordinance Number 23 amends the Tribe's gaming ordinance to re-define complimentary services as they apply to certain tribal employees and increases the threshold limits for accounting for such services from \$50.00 to \$100.00. Next, Ordinance Number 167 revises the definition of key employees and primary management officials, and also incorporates funding requirements for the regulation of the Tribe's new casino. Ordinance Number 337 updates the Tribe's background investigation process to include the recent regulatory changes made in Sections 556 and 558 of the NIGC's regulations. More specifically, the provisions change the Tribe's reporting requirements to the NIGC by (1) providing the NIGC with notice both before and after the Tribe issues a gaming license; and (2) ensuring the NIGC is notified of revocation determinations within 45 days after the NIGC provides information stating that an individual is not eligible for a gaming license. Finally, Ordinance 451 makes three additional changes. First, it revises ordinance's public health and environmental safety mandate to include more generalized language. Second, it clarifies the information to be reported on a background investigation application. Last, it lists the submission and timing requirements for the results of background investigations to the NIGC.

Thank you for bringing the amendments to our attention. The amendments are approved as they are consistent with the requirements of the Indian Gaming Regulatory

Act and the NIGC's regulations. If you have any questions, please feel free to contact Staff Attorney Andrew Mendoza at 202-632-7003.

Sincerely,



Jonodev O. Chaudhuri  
Chairman



# TABLED PASSED

FEB 24 2014

Cherokee Council House  
Cherokee, Qualla Boundary (NC)

Date: OCT 22 2013

## ORDINANCE NO. 23 (2013)

WHEREAS, there currently exists a need to update the Gaming Ordinance in regards to complimentary services or items as specified in the National Indian Gaming Commission regulations, and

WHEREAS, Section 16-2.04 and Section 16-2.16 in the Cherokee Code lists a dollar amount for complimentary services or items that is lower than the NIGC regulations permitted allowance, and

WHEREAS, the NIGC regulations authorize the Tribal Gaming Commission to promulgate rules and regulations on the conditions and limits to issuance of complimentary services and items.

NOW THEREFORE BE IT ORDAINED BY THE TRIBAL COUNCIL OF THE EASTERN BAND OF CHEROKEE INDIANS IN ANNUAL COUNCIL ASSEMBLED AT WHICH A QUORUM IS PRESENT, that the Cherokee Code Sections at 16-2.04 and 16-2.16 shall be amended as follows:

The final paragraph in Cherokee Code Sec. 16-2.04 shall be amended to read as follows:

For purposes of this subparagraph (c), complimentary items shall not include admission to events and shows sponsored by the casino, ceremonial gifts or meals provided at the expense of a Tribal gaming operation, provided that such items do not each exceed \$100.00 in value and are not offered as an inducement or reward for gambling in the operation.

Also, paragraph (b) in Cherokee Code Sec. 16-2.16 shall be amended to read as follows:

(b) No key employee, primary management official, or actively serving Principal Chief, Vice-Chief, Tribal Council member, member of a Board of Advisors or the Commission, or Cherokee Judge or Justice, shall be authorized to receive complimentary items. For purposes of this section, complimentary items shall not include admission to events and shows sponsored by the casino, ceremonial gifts or meals provided at the expense of a Tribal gaming operation, provided that such items do not each exceed \$100.00 in value and are not offered as an inducement or reward for gambling in the operation.

BE IT FURTHER ORDAINED that the Tribal Gaming Commission be directed to carry out the intent of this Ordinance, to amend any gaming regulations to reflect these ordinance amendments and to pursue any required notices or approvals with the NIGC.

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

*Submitted by: Alan B. Ensley and David Wolfe, Council Representative*

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**Cherokee Code**  
**Chapter 16**  
**Tribal Gaming Ordinance**

**Sec. 16-2.04. Restrictions on Commissioners.**

To avoid potential conflicts of interest between the management and regulation of a gaming operation, the Tribe hereby declares that:

- (a) While actively serving in any of the following capacities, no Principal Chief or Vice-Chief, member of the Tribal Council or a Board of Advisors, no judge or justice, no Tribal employee, and no employee of the Commission or any gaming operation owned by the Tribe, may serve on the Commission;
- (b) No person who is ineligible to be a key employee or primary management official and no person convicted of a felony, embezzlement, theft, or any other money-related crime or honesty related crime (such as fraud) may serve on the Commission;
- (c) Commissioners are prohibited from:
  - (1) Gambling in any gaming operation owned by the Tribe;
  - (2) Accepting complimentary items from any gaming operation;
  - (3) Providing contractual services of any kind to any gaming operation;
  - (4) Providing management services to any gaming operation pursuant to a management contract;
  - (5) Accepting gratuities or any other thing of value from any licensee or applicant; and
  - (6) Engaging in outside employment or activities, including seeking or negotiating for future employment, which conflict with their official duties and responsibilities as determined by the Tribal Council.

For purposes of this subparagraph (c), complimentary items shall not include admission to events and shows sponsored by the casino, ceremonial gifts or meals provided at the expense of a Tribal gaming operation, provided that such items do not each exceed ~~\$\$50.00~~ 100.00 in value and are not offered as an inducement or reward for gambling in the operation.

(Ord. No. 710, 10-13-2005)

**Sec. 16-2.16. Complimentary items.**

(a) The use of complimentary items shall be governed by regulations promulgated by the Commission under section 16-2.15(a), which shall, at a minimum, be in accord with the NIGC's Minimum Internal Control Standards, currently published at 25 C.F.R. § 542.17.

(b) No key employee, primary management official, or actively serving Principal Chief, Vice-Chief, Tribal Council member, member of a Board of Advisors or the Commission, or Cherokee Judge or Justice, shall be authorized to receive complimentary items. For purposes of this section, complimentary items shall not include admission to events and shows sponsored by the casino, ceremonial gifts or meals provided at the expense of a Tribal gaming operation, *provided* that such items do not each exceed ~~\$\$50.00~~ 100.00 in value and are not offered as an inducement or reward for gambling in the operation.

(c) No actively serving Principal Chief, Vice-Chief, Tribal Council member, member of a Board of Advisors or the Commission, or Cherokee Judge or Justice, shall be authorized to carry a "comp book" or otherwise approve the issuance of complimentary items.

(d) Complimentary items shall be included in the annual budget of a gaming operation and shall be subject to approval by the applicable Board of Advisors.

(Ord. No. 710, 10-13-2005)

**NATIONAL INDIAN GAMING COMMISSION**

**25 CFR Part 542**

**Minimum Internal Control Standards (MICS)**

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**§542.17 What are the minimum internal control standards for complimentary services or items?**

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(a) Each Tribal gaming regulatory authority or gaming operation shall establish and the gaming operation shall comply with procedures for the authorization, issuance, and tracking of complimentary services and items, including cash and non-cash gifts. Such procedures must be approved by the Tribal gaming regulatory authority and shall include, but shall not be limited to, the procedures by which the gaming operation delegates to its

employees the authority to approve the issuance of complimentary services and items, and the procedures by which conditions or limits, if any, which may apply to such authority are established and modified (including limits based on relationships between the authorizer and recipient), and shall further include effective provisions for audit purposes.

(b) At least monthly, accounting, information technology, or audit personnel that cannot grant or receive complimentary privileges shall prepare reports that include the following information for all complimentary items and services equal to or exceeding \$100 or an amount established by the Tribal gaming regulatory authority, which shall not be greater than \$100: (Revised August 12, 2005)

- (1) Name of customer who received the complimentary service or item;
- (2) Name(s) of authorized issuer of the complimentary service or item;
- (3) The actual cash value of the complimentary service or item;
- (4) The type of complimentary service or item (i.e., food, beverage, etc.); and
- (5) Date the complimentary service or item was issued.

(c) The internal audit or accounting departments shall review the reports required in paragraph (b) of this section at least monthly. These reports shall be made available to the Tribe, Tribal gaming regulatory authority, audit committee, other entity designated by the Tribe, and the Commission upon request. (Revised August 12, 2005)





The attached Resolution/Ordinance No. 23 dated October 22, 2013 was:

**PASSED (x)**

**KILLED ( )**

and ratified in open Council on February 24, 2014 by 80 voting for the act and 20 members voting against it as follows:

VOTE	FOR	AGAINST	ABSTAIN	ABSENT
Teresa McCoy		X		
Perry Shell		X		
Tunney Crowe	X			
B Ensley	X			
David Wolfe	X			
Bill Taylor	X			
Terri Henry		X		
Brandon Jones	X			
Adam Wachacha	X			
Bo Crowe	X			
Albert Rose	X			
Tommye Saunooke	X			
	80	20	0	0

*Terri Henry*  
\_\_\_\_\_  
TRIBAL COUNCIL CHAIRWOMAN

*Michelle Thompson*  
\_\_\_\_\_  
ENGLISH CLERK

*Michael Hicks*  
\_\_\_\_\_  
PRINCIPAL CHIEF

APPROVED (✓) VETOED ( )

VETO UPHeld ( ) VETO DENIED ( )

DATE: 2-28-14

I hereby certify that the foregoing act of the Council was duly:

**PASSED (x)**

**KILLED ( )**

and ratified in open Council after the same has been interpreted by the Official Interpreter and has been fully and freely discussed.

In testimony, whereof, I have hereunto set my hand and affixed the seal of the said Band of Indians. Superintendent, Cherokee Indian Agency.

\_\_\_\_\_  
INTERPRETED ( )

*Darlene Whitcomb*  
\_\_\_\_\_  
OMITTED ( )

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**TABLED  
AMENDED**

**PASSED**

**JUN 25 2014**

**Cherokee Council House  
Cherokee, Qualla Boundary (NC)**

**Date: APR 10 2014**

**ORDINANCE NO. 167 (2014)**

WHEREAS, Ordinance No. 23 (2013) was passed by Tribal Council and ratified by the Principal Chief on February 24, 2014, and

WHEREAS, the Ordinance amendment requires approval by the National Indian Gaming Commission (NIGC), and

WHEREAS, prior to the Ordinance being submitted to the NIGC it has been pointed out by the NIGC staff that the Gaming Ordinance requires a few other amendments to be in compliance with their current regulations, and

WHEREAS, in the interest of efficiency these amendments should be submitted to the NIGC along with the recently passed Ordinance No. 23 (2013), and

WHEREAS, the Gaming Ordinance and the Management Agreement with Harrah's must be amended to reflect the recent addition and approval of the new Murphy Casino project and the impact to the budget of the TGC for regulatory costs.

NOW THEREFORE BE IT ORDAINED IN ANNUAL COUNCIL ASSEMBLED AT WHICH A QUORUM IS PRESENT that the Cherokee Code Sections at 16-1, 16-2.04, 16-2.13, 16-2.16 and 16-4.03 as well as Section 4.33 of the Amended and Restated Management Agreement between the EBCI and Harrah's NC Casino, LLC, shall be amended to read as follows:

**Chapter 16 - TRIBAL GAMING ORDINANCE**

**Sec. 16-1. Definitions.**

(w) *Key employee* means:

(1) A person who performs one or more of the following functions:

- (i) Bingo caller,
- (ii) Counting room supervisor,
- (iii) Chief of security,
- (iv) Custodian of gaming supplies or cash,
- (v) Floor manager,
- (vi) Pit boss,
- (vii) Dealer,
- (viii) Croupier,
- (ix) Approver of credit, or

- 1 (x) Custodian of gambling ~~dcvices~~ terminals or other devices operated by the  
 2 ~~management of any gaming operation,~~ including persons with access to cash  
 3 and accounting records ~~for within~~ such devices;  
 4 (2) If not otherwise included, any other person whose total cash compensation ~~from~~  
 5 ~~employment in any gaming operation exceed~~ is in excess of \$50,000.00 per year;  
 6 or;  
 7 (3) If not otherwise included, the four most highly compensated persons in ~~any~~the  
 8 ~~gaming operation,~~ or  
 9 (4) Any ~~equivalent position in a gaming operation that the Commission designates by~~  
 10 ~~its rules~~ other person designated by the tribe as a key employee.  
 11 (j) *Primary management officials* means:  
 12 (1) The person~~(s)~~ having management responsibility ~~over all or any part of any~~  
 13 ~~gaming operation;~~ for a management contract;  
 14 (2) Any person who has authority:  
 15 (i) To hire and fire employees ~~of a gaming operation;~~ or  
 16 (ii) To ~~establish~~set up working policy for ~~at~~the gaming operation; or  
 17 (3) The chief financial officer or other person who has financial management  
 18 responsibility ~~for any gaming operation;~~  
 19 ~~(4) Any person who is a controlling shareholder of a management contractor; or~~  
 20 ~~(5) Any equivalent position in a gaming operation that the Commission designates by~~  
 21 ~~its rules~~ other person designated by the tribe as a primary management official.  
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 23

24 **Sec. 16-2.04. Restrictions on Commissioners.**  
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26 To avoid potential conflicts of interest between the management and regulation of a gaming  
 27 operation, the Tribe hereby declares that:  
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29 (a) While actively serving in any of the following capacities, no Principal Chief or Vice-  
 30 Chief, member of the Tribal Council or a Board of Advisors, no judge or justice, no Tribal  
 31 employee, and no employee of the Commission or any gaming operation owned by the  
 32 Tribe, may serve on the Commission;  
 33

34 (b) No person who is ineligible to be a key employee or primary management official and  
 35 no person convicted of a felony, embezzlement, theft, or any other money-related crime or  
 36 honesty related crime (such as fraud) may serve on the Commission;  
 37

38 (c) Commissioners are prohibited from:

- 39 (1) Gambling in any gaming operation owned by the Tribe;  
 40 (2) Accepting complimentary items from any gaming operation;  
 41 (3) Providing contractual services of any kind to any gaming operation;  
 42 (4) Providing management services to any gaming operation pursuant to a  
 43 management contract;  
 44 (5) Accepting gratuities or any other thing of value from any licensee or applicant;  
 45 and

1 (6) Engaging in outside employment or activities, including seeking or negotiating  
2 for future employment, which conflict with their official duties and responsibilities  
3 as determined by the Tribal Council.  
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5 For purposes of this subparagraph (c), complimentary items shall not include admission to  
6 events and shows sponsored by the casino, ceremonial gifts or meals provided at the  
7 expense of a Tribal gaming operation, provided that such items do not each exceed  
8 ~~\$50.00~~100.00 in value and are not offered as an inducement or reward for gambling in the  
9 operation.

10  
11 (Ord. No. 710, 10-13-2005)

12 **Sec. 16-2.13. Budget.**

13 The Commission shall prepare a budget for its operations as necessary to pay salaries  
14 and other expenses, within the limit of funds available to it, which is to be included in the  
15 Executive Committee's proposed budget submitted annually to Tribal Council for approval.  
16 The budget shall be established within the following limits:

17 (a) The Commission budget shall be partially funded as an operating expense of the  
18 Tribal Casino Gaming Enterprise (TCGE). The TCGE shall fund all actual direct  
19 expenses related solely to the Commission's regulation of the gaming activities of  
20 the TCGE. Such payment for the Harrah's Cherokee Casino Resort shall be the  
21 lesser of the actual regulatory cost or an amount which is two-thirds of one  
22 percent (0.66%) of the gross gaming revenue (win) but in no event more than  
23 \$3,000,000 for the fiscal year. Such payment for the Harrah's Cherokee Valley  
24 River Casino & Hotel shall be the lesser of the actual regulatory cost or an amount  
25 which is two-thirds of one percent (0.66%) of the gross gaming revenue (win) but  
26 in no event more than \$1,500,000 for the fiscal year. For each year after fiscal  
27 year 2013, the capped amounts shall increase 5% annually to account for growth  
28 and economy. Any surplus of such funds over actual expenses at the end of a  
29 fiscal year shall be refunded to the TCGE within 120 days of the end of the fiscal  
30 year. Upon completion of the TCGE audit, any excess funds will be returned  
31 immediately following the per capita distribution ordinance.

32 (b) The Tribal Bingo Enterprise (TBE) shall fund all actual direct expenses related  
33 solely to the Commission's regulation of the gaming activities of the TBE.

34 (c) If the Commission's budget needs exceed the amounts in subparagraphs (a) and  
35 (b) for any fiscal year, then the Commission shall utilize funds obtained through  
36 licensing fees and regulatory fines, or seek additional funding from the Tribal  
37 Council. Except as provided in subparagraph (d), below, any surplus remaining in  
38 such fees, fines or additional funding at the end of a fiscal year shall be distributed  
39 to the Tribe in accordance with Chapter 16C

40 (d) The Commission shall have the authority to establish, fund, and maintain  
41 capital/expansion reserve funds for:

- 1 (1) Working capital in an amount recommended by the independent auditors; and
- 2 (2) For such other purposes as are specifically authorized for gaming regulatory
- 3 purposes by a Tribal Council ordinance based a detailed plan for use of the
- 4 funds submitted by the Commission.

5 (Ord. No. 710, 10-13-2005; Ord. No. 431, 11-2-2010; Ord. No. 244, 8-8-2012; Ord.  
6 No. 360, 10-26-2012 )

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9 **Sec. 16-2.16. Complimentary items.**

10

11 (a) The use of complimentary items shall be governed by regulations promulgated by the  
12 Commission under section 16-2.15(a), which shall, at a minimum, be in accord with the  
13 NIGC's Minimum Internal Control Standards, currently published at 25 C.F.R. § 542.17.

14

15 (b) No key employee, primary management official, or actively serving Principal Chief,  
16 Vice-Chief, Tribal Council member, member of a Board of Advisors or the Commission, or  
17 Cherokee Judge or Justice, shall be authorized to receive complimentary items. For  
18 purposes of this section, complimentary items shall not include admission to events and  
19 shows sponsored by the casino, ceremonial gifts or meals provided at the expense of a  
20 Tribal gaming operation, *provided* that such items do not each exceed ~~\$50.00~~ 100.00 in  
21 value and are not offered as an inducement or reward for gambling in the operation.

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23 (c) No actively serving Principal Chief, Vice-Chief, Tribal Council member, member of a  
24 Board of Advisors or the Commission, or Cherokee Judge or Justice, shall be authorized to  
25 carry a "comp book" or otherwise approve the issuance of complimentary items.

26

27 (d) Complimentary items shall be included in the annual budget of a gaming operation and  
28 shall be subject to approval by the applicable Board of Advisors.

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30 (Ord. No. 710, 10-13-2005)

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32 **ARTICLE IV. LICENSE APPLICATIONS AND PROCEDURES**

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34 **Sec. 16-4.03. Application for license.**

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36 (d) The following notices shall be placed on the application form for a key employee,  
37 management entity, primary management official or supplier of gaming goods and  
38 services before such form is completed by an applicant:

39

40 (1) In compliance with the Privacy Act of 1974 the following information is provided:  
41 Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et  
42 seq. The purpose of the requested information is to determine the eligibility of  
43 individuals to be granted a gaming license. The information will be used by the  
Tribal gaming regulatory authorities and by the National Indian Gaming

1 Commission (NIGC) members and staff who have need for the information in the  
2 performance of their official duties. The information may be disclosed by the  
3 Tribe or the NIGC to appropriate Federal, Tribal, State, local, or foreign law  
4 enforcement and regulatory agencies when relevant to civil, criminal or regulatory  
5 investigations or prosecutions or when pursuant to a requirement by a Tribe or the  
6 ~~NIGC~~ National Indian Gaming Commission in connection with the issuance,  
7 denial, or revocation of a gaming license, or investigations of activities while  
8 associated with a Tribe or a gaming operation. Failure to consent to the  
9 disclosures indicated in this notice will result in a Tribe's being unable to license  
10 you for a primary management official or key employee position.

- 11 (2) The disclosure of your social security number (SSN) is voluntary. However,  
12 failure to supply a SSN may result in errors in processing your application.  
13 (3) A false statement on any part of your license application may be grounds for  
14 denying a license or the suspension or revocation of a license. Also, you may be  
15 punished by fine or imprisonment (U.S. Code, title 18, section 1001).  
16

17 **The Management Agreement between the Eastern Band of Cherokee Indians and Harrah's**  
18 **NC Casino LLC shall be amended to read as follows:**

19  
20 **Section 4. Business and Affairs in Connection with Enterprise is amended as follows:**

21  
22 **4.33 Limits of Charges to Enterprise for Regulatory Costs.** Without intending to limit  
23 the Tribe's ability to budget any amount it determines necessary for the regulation  
24 of gaming at the Enterprise, the Tribe and Manager agree that the Enterprise  
25 shall pay to the Tribal Gaming Commission, as an Operating Expense of the  
26 Enterprise, the actual direct expenses of the Tribal Gaming Commission related  
27 solely to the Tribal Gaming Commission's regulation of the gaming activities of  
28 the Enterprise. Such payment for the Harrah's Cherokee Casino Resort shall be  
29 the lesser of the actual regulatory cost and an amount which is two-thirds of 1  
30 percent (0.66%) of the Gross Gaming Revenue (Win), but in no event more than  
31 \$3,000,000 for the Fiscal Year in which the Effective Date occurs. Such  
32 payment for the Harrah's Cherokee Valley River Casino & Hotel shall be the  
33 lesser of the actual regulatory cost or an amount which is two-thirds of one  
34 percent (0.66%) of the gross gaming revenue (win) but in no event more than  
35 \$1,500,000 for the fiscal year. For each succeeding year thereafter the capped  
36 amounts shall increase 5% annually to account for growth and economy. Any  
37 excess payments over the actual expenditures shall be refunded to the  
38 Enterprise within one hundred twenty (120) days of the end of the Tribal Gaming  
39 Commission's fiscal year. The Enterprise shall have the right to audit the books  
40 and records of the Tribal Gaming Commission on an annual basis solely for  
41 the purpose of determining the accuracy of the Tribal Gaming Commission's  
42 statement of its actual expenses to be paid by the Enterprise pursuant to this  
43 section.  
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1 BE IT FURTHER ORDAINED that the Tribal Gaming Commission is hereby directed to  
2 carry out the intent of this Ordinance, to amend any gaming regulations to reflect  
3 these ordinance amendments, to prepare amendments between the Tribe and  
4 Harrah's for signature by the Principal Chief and the proper officials from Harrah's  
5 and to submit these amendments, along with all prior amendments, to the NIGC for  
6 approvals as required.

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8 BE IT FINALLY ORDAINED that this ordinance shall be effective upon ratification by  
9 the Principal Chief.

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*Submitted by: Cherokee Tribal Gaming Commission*

Amendment to Ord. 167 (2014); (attached ) Sec. 16C-9. Revenue Allocation Percentages and Sec. 16C-16. Higher Education Fund



**Sec. 16C-9. - Revenue allocation percentages.**

(a) Effective October 1, 2010, distributable net revenue shall be distributed to fund per capita distributions, Tribal government operations, and the general welfare funds established under this Chapter as follows:

Per Capita Distributions (§§ 16C-5, -6) .....	50.00%
Tribal General Fund .....	21.50%
Endowment and Investment Funds (§ 16C-10) .....	4.30%
(1.5% to Endowment Fund No. 1 and 2.8% to Endowment Fund No. 2)	
Debt Service Sinking Fund (§ 16C-14) .....	6.00%
Housing Fund (§ 16C-15) .....	3.80%
Higher Education Fund (§ 16C-16) .....	2.40%
Capital Improvement Program (§ 16C-17) .....	2.40%
Cherokee Central Schools Assistance Fund (§ 16C-18) .....	2.00%
Health Program Supplement Fund (§ 16C-19) .....	2.40%
Cherokee Indian Hospital Authority (§ 16C-19) .....	3.40%
Police and Corrections Fund (§ 16C-20) .....	1.20%
Kituwah Language Immersion (§ 16C-21) .....	0.60%
TOTAL .....	100.00%

(b) During the Annual Budget Process, the Finance Office will determine the Gaming Revenue to be budgeted for the fiscal year and this amount shall be the Baseline Gaming Revenue Amount. At all times, 50% of the gaming revenues received will be deposited into the Per Capita Distribution fund listed above. For all funds other than the Per Capita Distribution, Higher Education Fund, Cherokee Indian Hospital Authority and Cherokee Central Schools Assistance Fund, if the Gaming Revenue received from the fiscal year exceeds the Baseline Gaming Revenue Amount by more than 5%, that excess shall be distributed to the Budget Stabilization Line item in the General Fund to provide stability for future fluctuations in revenue and budgets. Excess funds shall be distributed to a designated reserve fund for the Cherokee Indian Hospital Authority and Cherokee Central Schools Assistance fund as provided for in Section 16C-22 and Section 16C-23 respectively. Excess funds of the Higher Education Fund shall be distributed to the Higher Education Endowment Fund as provided for in Section 16C-16. For all funds other than the Per Capita Distribution, if the Gaming Revenue received for the fiscal year is less than the Baseline Gaming Revenue Amount by more than 5%, that deficiency shall be distributed out of the Budget Stabilization Line item in the General Fund to the extent of available resources in the Budget Stabilization Line item and in accordance with 16C-9(d). In the event that resources are not available in the Budget Stabilization Line item, the Finance Office will obtain direction from Executive and Tribal

Council on how to prioritize and reallocate resources within the Tribal Budget and such direction shall be approved by resolution of the Tribal Council.

(c) A fund balance of at least 10 percent and not to exceed 50 percent of the Annual Tribal Budget shall be maintained in the General Fund to ensure cash flow continuity. Any balance in excess of that amount at the end of each fiscal year shall be distributed to the Endowment and Investment Funds. There are no fund balance limitations for the other governmental operations and general welfare funds established in this Chapter.

(d) A fund balance for Budget Stabilization Fund shall be established as outlined in 16C-9(b). The fund shall only be utilized when revenue realized is significantly less than projected revenue and shall require a Tribal Council resolution defining how much will be utilized and why it is needed to be utilized. The Budget Stabilization Fund shall be managed by the Finance Office and reported to Tribal Council annually.

(e) In the event that the Gaming Revenue available creates a budget shortfall or a rebalancing of Tribal priorities in the budget is needed, the Finance Office will balance the budget utilizing available resources in accordance with limits identified in 16C-9(c).

Sec. 16C-22. -- Cherokee Indian Hospital Authority Reserve Fund.

#### **Sec. 16C-16. Higher Education Fund.**

The Tribal Council shall create and fund a separate Higher Education Funding Program with distributable net revenue as set forth in section 16C-9. The purpose of this Program shall be to provide funding to assist enrolled members with their higher education needs. The Higher Education Funding Program may be used to fund the Summer College Internship Program and special preparatory classes that assist applicants in gaining entrance to college, graduate or professional school. The Higher Education Funding Program shall not fund secondary school expenses or extra curricular activities.

The Higher Education Endowment Fund shall be funded by excess revenues from gaming distribution designated for the Higher Education Fund in Section 16C-9, effectively exempting the Higher Education Fund from the Budget Stabilization line item requirements by redirecting excess gaming revenues to a restricted endowment fund. In each fiscal year the program will seek to fund a minimum of ten percent of the distributable net revenue that is distributed to the Higher Education Fund shall then be distributed to a Higher Education Endowment Fund, if funds are available. The Higher Education Committee, in conjunction with the Finance Department, shall establish the criteria for distributions, investment management and administration of from the Higher Education Endowment Fund through a comprehensive investment policy statement approved by the tribal council.

(Ord. No. 888, 10-13-2005; Ord. No. 457, 9-12-2006; Ord. No. 481, 10-3-2008; Ord. No. 873, 9-18-2009)

The attached Resolution/Ordinance No. 167 dated April 10, 2014 was:

**PASSED ( x )**

**KILLED ( )**

and ratified in open Council on June 25, 2014 by 86 voting for the act and 0 members voting against it as follows:

VOTE	FOR	AGAINST	ABSTAIN	ABSENT
Teresa McCoy				X
Perry Shell	X			
Tunney Crowe	X			
B Ensley				X
David Wolfe	X			
Bill Taylor	X			
Terri Henry	X			
Brandon Jones	X			
Adam Wachacha	X			
Bo Crowe	X			
Albert Rose	X			
Tommye Saunooke	X			
	86	0	0	14

*Demi Dunning*  
 \_\_\_\_\_  
 TRIBAL COUNCIL CHAIRWOMAN

*Michelle Thompson*  
 \_\_\_\_\_  
 ENGLISH CLERK

*Albert Wachacha*  
 \_\_\_\_\_  
 PRINCIPAL CHIEF

APPROVED (✓) VETOED ( )

VETO UPHeld ( ) VETO DENIED ( )

DATE: 7-8-14

I hereby certify that the foregoing act of the Council was duly:

**PASSED ( )**

**KILLED ( )**

and ratified in open Council after the same has been interpreted by the Official Interpreter and has been fully and freely discussed.

In testimony, whereof, I have hereunto set my hand and affixed the seal of the said Band of Indians. Superintendent, Cherokee Indian Agency.



\_\_\_\_\_  
 INTERPRETED ( )

\_\_\_\_\_  
 OMITTED ( )



TABLED

PASSED

OCT 13 2014

Cherokee Council House  
Cherokee, North Carolina

Date: September 4, 2014

ORDINANCE NO. 337 (2014)

WHEREAS, Tribal Council passed Ordinance 167 on June 25, 2014 and it was properly ratified by the Principal Chief on July 8, 2014 and it was submitted for approval to the NIGC by the Cherokee Gaming Commission on July 17, 2014, and

WHEREAS, the NIGC has alerted us that prior to them being able to approve the Ordinance amendments there are a couple of sections in our Gaming Ordinance that must be amended relating to a recent change in the federal regulations at 25 CFR 556 & 558 that pertain specifically to Background and Licensing of Gaming employees.

NOW THEREFORE BE IT ORDAINED IN ANNUAL COUNCIL ASSEMBLED AT WHICH A QUORUM IS PRESENT that Chapter 16 of the Cherokee Code shall be amended as follows:

**1) Sec. 16-5.09 shall be stricken in its entirety and replaced with the following language:**

Sec. 16-5.09. Granting a gaming license. Notification to NIGC of license decisions and retention obligations.

- (a) After the Commission has provided a notice of results of the background check to the NIGC, the Commission may license a primary management official or key employee.
- (b) Within 30 days after the issuance of the license, the Commission shall notify the NIGC of its issuance.
- (c) A gaming operation shall not employ a key employee or primary management official who does not have a license after ninety (90) days.
- (d) If a tribe does not license an applicant -
  - (1) The tribe shall notify the Commission; and
  - (2) Shall forward copies of its eligibility determination and notice of results, to the NIGC in accordance with regulations found at 25 CFR 556 & 558 for inclusion in the Indian Gaming Individuals Record System.
- (e) A tribe shall retain the following for inspection by the Chair or his or her designee for no less than three years from the date of termination of employment:
  - (1) Applications for licensing;
  - (2) Investigative reports; and
  - (3) Eligibility determinations.

**2) Sec. 16-5.10 shall be stricken in its entirety and replaced with the following language:**

Sec. 16-5.10. License revocation and suspension following receipt of information from NIGC. Notice of information impacting eligibility and licensee's right to a hearing.

(a) If, after the issuance of a gaming license, the NIGC receives reliable information indicating that a key employee or a primary management official is not eligible for employment under § 556.5 of the Regulations, the NIGC shall notify the Commission of the information.

(b) Upon receipt of such notification under paragraph (a) of this section, the Commission shall immediately suspend the license and shall provide the licensee with written notice of suspension and proposed revocation.

(c) The Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.

(d) A right to a hearing under this part shall vest only upon receipt of a license granted under an ordinance approved by the Chair of the NIGC.

(e) After a revocation hearing, the Commission shall decide to revoke or to reinstate a gaming license. The Commission shall notify the NIGC of its decision within 45 days of receiving notification from the NIGC pursuant to paragraph (a) of this section.

BE IT FURTHER ORDAINED that the Cherokee Tribal Gaming Commission is hereby directed to carry out the intent of this Ordinance and to submit all documents to the NIGC for approval.

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

*Submitted by: Cherokee Tribal Gaming Commission*

Tribal Council

Redline Version of Ordinance Amendments Changes

Sec. 16-5.09. Granting a gaming license. Notification to NIGC of license decisions and retention obligations.

~~(a) If, within a 30-day period after the NIGC receives all required applications and reports, the NIGC notifies the Tribe that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official, the Commission may issue a license to such applicant.~~

~~(b) The Commission shall respond in a timely manner to requests for additional information from the Chairman concerning key employees or primary management officials who are the subject of any report filed with the NIGC by the Commission. Any such request by the Chairman shall suspend the 30-day period referred to in this section until the Chairman receives the additional information requested.~~

~~(c) If, within a 30-day period after the NIGC receives all required applications and reports, the NIGC provides the Tribe with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Commission has submitted an application and all required reports to the NIGC, the Commission shall reconsider the application, taking into account the objections itemized by the NIGC. The Commission shall make the final decision whether to issue a license to such applicant.~~

(a) After the Commission has provided a notice of results of the background check to the NIGC, the Commission may license a primary management official or key employee.

(b) Within 30 days after the issuance of the license, the Commission shall notify the NIGC of its issuance.

(c) A gaming operation shall not employ a key employee or primary management official who does not have a license after ninety (90) days.

(d) If a tribe does not license an applicant -

(1) The tribe shall notify the Commission; and

(2) Shall forward copies of its eligibility determination and notice of results, to the NIGC in accordance with regulations found at 25 CFR 556 & 558 for inclusion in the Indian Gaming Individuals Record System.

(e) A tribe shall retain the following for inspection by the Chair or his or her designee for no less than three years from the date of termination of employment:

(1) Applications for licensing;

(2) Investigative reports; and

(3) Eligibility determinations.

(Ord. No. 710, 10-13-2005)

Sec. 16-5.10. License revocation and suspension following receipt of information from NIGC. Notice of Information Impacting eligibility and licensee's right to a hearing.

~~(a) If, after the issuance of a license, the Tribe receives information from the NIGC indicating that a management entity or controlling shareholder, key employee, or primary management official is not~~

~~eligible for employment under section 16-4.02 of this chapter, the Commission shall suspend such license, shall notify the licensee in writing of such suspension and the potential revocation of the licensee's license, and shall conduct a hearing in accordance with the rules regarding the proposed license revocation.~~

~~(b) After a hearing, the Commission shall revoke or reinstate a license suspended pursuant to subsection (a) of this section. The Commission shall notify the NIGC of its decision. A decision of the Commission to revoke a license after the hearing called for by subsection (a) of this section shall be final and there shall be no appeal. A management entity whose license has been revoked or suspended pursuant to this section may not operate a gaming operation.~~

(a) If, after the issuance of a gaming license, the NIGC receives reliable information indicating that a key employee or a primary management official is not eligible for employment under § 556.5 of the Regulations, the NIGC shall notify the Commission of the information.

(b) Upon receipt of such notification under paragraph (a) of this section, the Commission shall immediately suspend the license and shall provide the licensee with written notice of suspension and proposed revocation.

(c) The Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.

(d) A right to a hearing under this part shall vest only upon receipt of a license granted under an ordinance approved by the Chair of the NIGC.

(e) After a revocation hearing, the Commission shall decide to revoke or to reinstate a gaming license. The Commission shall notify the NIGC of its decision within 45 days of receiving notification from the NIGC pursuant to paragraph (a) of this section.

(Ord. No. 740, 10-13-2005)



The attached Resolution/Ordinance No. 337 dated September 4, 2014 was:

PASSED (  )

KILLED (  )

and ratified in open Council on October 13, 2013 by 93 voting for the act  
and 0 members voting against it as follows:

VOTE	FOR	AGAINST	ABSTAIN	ABSENT
Teresa McCoy	X			
Perry Shell				X
Tunney Crowe	X			
Alan B. Ensley	X			
David Wolfe	X			
Bill Taylor	X			
Terri Henry	X			
Brandon Jones	X			
Adam Wachacha	X			
Bo Crowe	X			
Albert Rose	X			
Tommye Saunooke	X			
<b>TOTAL</b>	<b>93</b>	<b>0</b>	<b>0</b>	<b>7</b>

  
\_\_\_\_\_  
TRIBAL COUNCIL CHAIRWOMAN

  
\_\_\_\_\_  
ENGLISH CLERK

  
\_\_\_\_\_  
PRINCIPAL CHIEF

APPROVED (  ) VETOED (  )

VETO UPHELD (  ) VETO DENIED (  )

DATE: 10-20-14

I hereby certify that the foregoing act of the Council was duly:

PASSED (  )

KILLED (  )

and ratified in open Council after the same has been interpreted by the Official Interpreter and has been fully and freely discussed.

In testimony, whereof, I have hereunto set my hand and affixed the seal of the said Band of Indians. Superintendent, Cherokee Indian Agency.

\_\_\_\_\_  
INTERPRETED (  )

\_\_\_\_\_  
OMITTED (  )



June 2014

## Chapter 16 - TRIBAL GAMING ORDINANCE

### Sec. 16-1. Definitions.

- (w) *Key employee* means:
- (1) A person who performs one or more of the following functions:
    - (i) Bingo caller,
    - (ii) Counting room supervisor,
    - (iii) Chief of security,
    - (iv) Custodian of gaming supplies or cash,
    - (v) Floor manager,
    - (vi) Pit boss,
    - (vii) Dealer,
    - (viii) Croupier,
    - (ix) Approver of credit, or
    - (x) Custodian of gambling ~~devices terminals or other devices operated by the management of any gaming operation, including persons with access to cash and accounting records for within such devices;~~
  - (2) If not otherwise included, any other person whose total cash compensation from employment in ~~any gaming operation exceed~~ is in excess of \$50,000.00 per year; or
  - (3) If not otherwise included, the four most highly compensated persons in ~~any~~ the gaming operation; ~~or~~
  - (4) Any equivalent ~~position in a gaming operation that the Commission designates by its rules other~~ person designated by the tribe as a key employee.
- (jj) *Primary management officials* means:
- (1) The person(s) having management responsibility ~~over all or any part of any gaming operation; for a management contract;~~
  - (2) Any person who has authority:
    - (i) To hire and fire employees ~~of a gaming operation;~~ or
    - (ii) To ~~establish~~ set up working policy for ~~at~~ the gaming operation; ~~or~~
  - (3) The chief financial officer or other person who has financial management responsibility ~~for any gaming operation;~~
  - ~~(4) Any person who is a controlling shareholder of a management contractor; or~~
  - (5) Any equivalent position in a gaming operation that the Commission designates by its rules other person designated by the tribe as a primary management official.

## ARTICLE IV. LICENSE APPLICATIONS AND PROCEDURES

### Sec. 16-4.03. Application for license.

- (d) The following notices shall be placed on the application form for a key employee, management entity, primary management official or supplier of gaming goods and services before such form is completed by an applicant:
- (1) In compliance with the Privacy Act of 1974 the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission (NIGC) members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Tribe or the NIGC to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a ~~Tribe~~ or the ~~NIGC~~ National Indian Gaming Commission in connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with a ~~Tribe~~ or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a ~~Tribe's~~ being unable to license you for a primary management official or key employee position.

June 2014

- (2) The disclosure of your social security number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.
- (3) A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment (U.S. Code, title 18, section 1001).

Commission or its agents, shall make every reasonable effort to maintain the confidentiality of the identity of each person interviewed in the course of the investigation. Willful or careless violations of this requirement are subject to penalty ranging from censure, suspension, removal from office and a fine of up to \$5,000.00.

**Third Amendment: Strike Paragraph (b) in Sec 16-5.08 in its entirety and replace with the added language as a new Paragraph (b) under Sec 16-5.08 as follows:**

**Sec. 16-5.08. Eligibility determination and procedures for forwarding applications and reports for key employees and primary management officials to the National Indian Gaming Commission.**

- (a) The Commission shall review an applicant's prior activities, criminal record, reputation, habits and associations to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation. If the Commission determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, the gaming operation shall not employ that person.
- (b) ~~When a key employee or primary management official commences work at a gaming operation, the Commission shall within a reasonable period of time forward to the NIGC a completed application for employment for such key employee or primary management official, and shall conduct all necessary background investigations. The Commission shall make the eligibility determination referred to in subsection (a) of this section.~~

Before issuing a license to a primary management official or to a key employee, the Commission shall:

(1) Create and maintain an investigative report on each background investigation. An investigative report shall include all of the following:

(i) Steps taken in conducting a background investigation;

(ii) Results obtained;

(iii) Conclusions reached; and

(iv) The basis for those conclusions.

(2) Submit a notice of results of the applicant's background investigation to the NIGC no later than sixty (60) days after the applicant begins work. The notice of results shall contain:

(i) Applicant's name, date of birth, and social security number;

(ii) Date on which applicant began or will begin work as key employee or primary management official;

(iii) A summary of the information presented in the investigative report, which shall at a minimum include a listing of:

(A) Licenses that have previously been denied;

(B) Gaming licenses that have been revoked, even if subsequently reinstated;

(C) Every known criminal charge brought against the applicant within the last 10 years of the date of application; and

- (D) Every felony of which the applicant has been convicted or any ongoing prosecution.
- (iv) A copy of the eligibility determination made under 16-5.08(c).
- (c) A report shall be submitted to the NIGC within 60 days after a key employee or primary management official commences work at a gaming operation or within 60 days of the approval of this chapter by the Chairman of the NIGC. Such report shall, at a minimum, include all of the following:
- (1) Steps taken in conducting the background investigation;
  - (2) Results obtained;
  - (3) Conclusions reached by the Commission;
  - (4) The Commission's basis for those conclusions; and
  - (5) A copy of the eligibility determination made pursuant to section 16-5.08(a).
- (d) Subject to the provisions of section 16-4.12, no gaming operation shall continue to employ as a key employee or primary management official any person who does not have a license within 90 days of commencing work at a gaming operation.
- (e) If a license is not issued to an applicant, the Commission.
- (1) Shall notify the NIGC; and
  - (2) May forward copies of its eligibility determination and any relevant report regarding a background investigation of the applicant to the NIGC for inclusion in the Indian Gaming Individuals Records System.
- (f) With respect to key employees and primary management officials, applications for employment and reports of background investigations shall be retained by the Commission for inspection by the Chairman or his designee for no less than three years from the date of termination of employment of each key employee or primary management official.

BE IT FURTHER ORDAINED that the Cherokee Tribal Gaming Commission is hereby directed to carry out the intent of this Ordinance and to submit all documents to the NIGC for approval.

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

*Submitted by: Cherokee Tribal Gaming Commission*

Feb. 2015

#### **Sec. 16-4.09. Conditions of license.**

All licensees shall comply with such reasonable conditions as may be fixed by the Commission including, but not limited to, the following conditions:

- (a) Facility licensees.
  - (1) The licensee shall at all times maintain an orderly, clean and neat gaming establishment, both inside and outside the premises of the gaming establishment;
  - (2) The gaming establishment shall be subject to patrol by the Tribe's security and law enforcement personnel and, when authorized, local and state law enforcement, and the licensee shall cooperate at all times with such security and law enforcement officials;
  - (3) The gaming establishment shall be open to inspection by authorized Tribal officials at all times during business hours;
  - (4) There shall be no discrimination in any gaming operations by reason of race, color, sex or creed; provided, however, that nothing herein shall prevent the licensee from granting preferences to Native Americans as permitted by law; and
  - (5) The Tribe shall construct, maintain and operate the gaming facility in a manner that adequately protects the environment and the public health and safety.
- (b) Persons, management entities and suppliers of gaming goods and services licensed by the Commission shall comply with such conditions of the license as the Commission, in its reasonable discretion, may require.

(Ord. No. 710, 10-13-2005)

#### **Sec. 16-5.03. Information required for background investigations.**

- (a) Each person subject to a background investigation under section 16-5.01 of this chapter shall be required to provide, subject to the Privacy Act of 1974, as amended, at a minimum, and in such form as designated in section 16-4.04, or as may be prescribed by the Commission or the Executive Director, all of the following information:
  - (1) Full name, other names used, social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
  - (2) Currently and for the previous ten years, all business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;
  - (3) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under subsection (a)(2) of this section;
  - (4) Current business and residence telephone numbers;
  - (5) A description of any existing and previous business relationships with any Native American Indian Tribe including, but not limited to, a description of the amount and type of ownership interest in those businesses;
  - (6) A description of any existing and previous business relationships with gaming including, but not limited to, a description of the amount and type of ownership interest in those businesses;

Feb. 2015

- (7) The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to any gaming or gambling, whether or not such license or permit was granted;
  - (8) For each felony, or ongoing felony prosecution, whether or not there is a conviction, the charge, the name and address of the court involved, and the date and disposition, if any;
  - (9) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within ten years of the date of the application, the name and address of the court involved and the date and disposition;
  - (10) For each criminal charge (excluding misdemeanor traffic charges, but including any DWI, reckless or careless driving charges), whether or not there is a conviction, if such criminal charge is within ten years of the date of the application and is not otherwise listed, the type of criminal charge, the name and address of the court involved and the date and disposition of such charge;
  - (11) The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
  - (12) A current photograph;
  - (13) Any other information the Commission deems relevant; and
  - (14) Fingerprints consistent with the provisions of section 16-4.05
- (b) Background investigations conducted by the Commission must be sufficient to make the determination described in section 16-5.08(a). In conducting a background investigation, the Commission or its agents, shall make every reasonable effort to maintain the confidentiality of the identity of each person interviewed in the course of the investigation. Willful or careless violations of this requirement are subject to penalty ranging from censure, suspension, removal from office and a fine of up to \$5,000.00.

**Sec. 16-5.08. Eligibility determination and procedures for forwarding applications and reports for key employees and primary management officials to the National Indian Gaming Commission.**

- (a) The Commission shall review an applicant's prior activities, criminal record, reputation, habits and associations to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation. If the Commission determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, the gaming operation shall not employ that person.
- (b) ~~When a key employee or primary management official commences work at a gaming operation, the Commission shall within a reasonable period of time forward to the NIGC a completed application for employment for such key employee or primary management official, and shall conduct all necessary background investigations. The Commission shall make the eligibility determination referred to in subsection (a) of this section.~~

Before issuing a license to a primary management official or to a key employee, a tribe shall:

(1) Create and maintain an investigative report on each background investigation. An investigative report shall include all of the following:

(i) Steps taken in conducting a background investigation;



Oct. 2014

Tribal Council

Redline Version of Ordinance Amendments Changes

Sec. 16-5.09. Granting a gaming license. Notification to NIGC of license decisions and retention obligations.

- ~~(a) If, within a 30-day period after the NIGC receives all required applications and reports, the NIGC notifies the Tribe that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official, the Commission may issue a license to such applicant.~~
- ~~(b) The Commission shall respond in a timely manner to requests for additional information from the Chairman concerning key employees or primary management officials who are the subject of any report filed with the NIGC by the Commission. Any such request by the Chairman shall suspend the 30-day period referred to in this section until the Chairman receives the additional information requested.~~
- ~~(c) If, within a 30-day period after the NIGC receives all required applications and reports, the NIGC provides the Tribe with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Commission has submitted an application and all required reports to the NIGC, the Commission shall reconsider the application, taking into account the objections itemized by the NIGC. The Commission shall make the final decision whether to issue a license to such applicant.~~
- (a) After the Commission has provided a notice of results of the background check to the NIGC, the Commission may license a primary management official or key employee.
- (b) Within 30 days after the issuance of the license, the Commission shall notify the NIGC of its issuance.
- (c) A gaming operation shall not employ a key employee or primary management official who does not have a license after ninety (90) days.
- (d) If a tribe does not license an applicant -
  - (1) The tribe shall notify the Commission; and
  - (2) Shall forward copies of its eligibility determination and notice of results, to the NIGC in accordance with regulations found at 25 CFR 556 & 558 for inclusion in the Indian Gaming Individuals Record System.
- (e) A tribe shall retain the following for inspection by the Chair or his or her designee for no less than three years from the date of termination of employment:
  - (1) Applications for licensing;
  - (2) Investigative reports; and
  - (3) Eligibility determinations.

(Ord. No. 710, 10-13-2005)

Sec. 16-5.10. License revocation and suspension following receipt of information from NIGC. Notice of information impacting eligibility and licensee's right to a hearing.

- ~~(a) If, after the issuance of a license, the Tribe receives information from the NIGC indicating that a management entity or controlling shareholder, key employee, or primary management official is not~~

Oct. 2014

~~eligible for employment under section 16-4.02 of this chapter, the Commission shall suspend such license, shall notify the licensee in writing of such suspension and the potential revocation of the licensee's license, and shall conduct a hearing in accordance with the rules regarding the proposed license revocation.~~

~~(b) After a hearing, the Commission shall revoke or reinstate a license suspended pursuant to subsection (a) of this section. The Commission shall notify the NIGC of its decision. A decision of the Commission to revoke a license after the hearing called for by subsection (a) of this section shall be final and there shall be no appeal. A management entity whose license has been revoked or suspended pursuant to this section may not operate a gaming operation.~~

(a) If, after the issuance of a gaming license, the NIGC receives reliable information indicating that a key employee or a primary management official is not eligible for employment under § 556.5 of the Regulations, the NIGC shall notify the Commission of the information.

(b) Upon receipt of such notification under paragraph (a) of this section, the Commission shall immediately suspend the license and shall provide the licensee with written notice of suspension and proposed revocation.

(c) The Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.

(d) A right to a hearing under this part shall vest only upon receipt of a license granted under an ordinance approved by the Chair of the NIGC.

(e) After a revocation hearing, the Commission shall decide to revoke or to reinstate a gaming license. The Commission shall notify the NIGC of its decision within 45 days of receiving notification from the NIGC pursuant to paragraph (a) of this section.

(Ord. No. 710, 10-13-2006)

The attached Resolution/Ordinance No. 451 dated January 08, 2015 was:

PASSED (  )

KILLED (            )

and ratified in open Council on February 05, 2015 by 100 voting for the act and 00 members voting against it as follows:

VOTE	FOR	AGAINST	ABSTAIN	ABSENT
Teresa McCoy	X			
Perry Shell	X			
Tunney Crowe	X			
Alan B. Ensley	X			
David Wolfe	X			
Bill Taylor	X			
Terri Henry	X			
Brandon Jones	X			
Adam Wachacha	X			
Bo Crowe	X			
Albert Rose	X			
Tommys Saunooke	X			
<b>TOTAL</b>	100	0	0	0

  
TERIBAL COUNCIL CHAIRWOMAN

  
ENGLISH CLERK

  
PRINCIPAL CHIEF

APPROVED  VETOED (    )

VETO UPHELD (    ) VETO DENIED ( X )

DATE: 2-6-15

I hereby certify that the foregoing act of the Council was duly:

PASSED (    )

KILLED (    )

and ratified in open Council after the same has been interpreted by the Official Interpreter and has been fully and freely discussed.

In testimony, whereof, I have hereunto set my hand and affixed the seal of the said Band of Indians. Superintendent, Cherokee Indian Agency.

\_\_\_\_\_  
INTERPRETED (    )

\_\_\_\_\_  
OMITTED (    )

Feb. 2015

- (ii) Results obtained;
  - (iii) Conclusions reached; and
  - (iv) The basis for those conclusions.
- (2) Submit a notice of results of the applicant's background investigation to the Commission no later than sixty (60) days after the applicant begins work. The notice of results shall contain:
- (i) Applicant's name, date of birth, and social security number;
  - (ii) Date on which applicant began or will begin work as key employee or primary management official;
  - (iii) A summary of the information presented in the investigative report, which shall at a minimum include a listing of:
    - (A) Licenses that have previously been denied;
    - (B) Gaming licenses that have been revoked, even if subsequently reinstated;
    - (C) Every known criminal charge brought against the applicant within the last 10 years of the date of application; and
    - (D) Every felony of which the applicant has been convicted or any ongoing prosecution.
  - (iv) A copy of the eligibility determination made under 16-5.08(c).
- (c) A report shall be submitted to the NIGC within 60 days after a key employee or primary management official commences work at a gaming operation or within 60 days of the approval of this chapter by the Chairman. Such report shall, at a minimum, include all of the following:
- (1) Steps taken in conducting the background investigation;
  - (2) Results obtained;
  - (3) Conclusions reached by the Commission;
  - (4) The Commission's basis for those conclusions; and
  - (5) A copy of the eligibility determination made pursuant to section 16-5.08(a).
- (d) Subject to the provisions of section 16-4 12, no gaming operation shall continue to employ as a key employee or primary management official any person who does not have a license within 90 days of commencing work at a gaming operation.
- (e) If a license is not issued to an applicant, the Commission:
- (1) Shall notify the NIGC; and
  - (2) May forward copies of its eligibility determination and any relevant report regarding a background investigation of the applicant to the NIGC for inclusion in the Indian Gaming Individuals Records System.
- (f) With respect to key employees and primary management officials, applications for employment and reports of background investigations shall be retained by the Commission for inspection by the Chairman or his designee for no less than three years from the date of termination of employment of each key employee or primary management official.

(Ord. No. 710, 10-13-2005)