



October 31, 2012

Annette Tarnawsky, Attorney General  
Eastern Band of Cherokee Indians  
P.O. Box 455  
Cherokee, NC 28719

Dear Ms. Tarnawsky:

This letter is in response to your request for the National Indian Gaming Commission (NIGC) to review and approve amendments to the Eastern Band of Cherokee Indians' gaming ordinance, No. 244 and No. 360, enacted by the Tribal Council on August 8, 2012 and October 26, 2012. Ordinance No. 244 amends the authorization of Class III gaming to include all gaming listed in the Band's compact and to authorize casino operations to extend credit to patrons. In addition to other ministerial changes regarding the budget and the use of net gaming revenues, it also amends the section that sets forth the tribal gaming commission's duties regarding authorizing and licensing gaming locations. Ordinance No. 360 updates the Privacy Act and False Statement Act notification language for consistency with NIGC regulation requirements.

The amendments are consistent with the requirements of the Indian Gaming Regulatory Act (IGRA) and the NIGC's implementing regulations and are therefore approved. It is important to note that approval is granted for gaming only on Indian lands, as defined in IGRA, over which the Tribe has jurisdiction.

Thank you for submitting the amendments for review and approval. The NIGC staff and I look forward to working with you and the Tribe on future gaming issues.

Sincerely,

A handwritten signature in blue ink that reads "Stevens".

Tracie L. Stevens  
Chairwoman

**TABLED  
AMENDED  
PASSED**

AUG 02 2012

Cherokee Council House  
Cherokee, North Carolina

**JUL 08 2012**

(Date)

ORDINANCE NO. 244 (2012)

WHEREAS, the Tribe and the State negotiated a mutually agreed upon First Amended & Restated Tribal-State Compact that was signed in November 2011 and an Addendum to First Amended & Restated Tribal-State Compact that was signed in May 2012 and Tribal Council properly ratified this Compact and related documents by Resolution No. 242 (June 8, 2012), and

WHEREAS, due to these changes and the increased gaming expected from these changes, the Cherokee Code at Chapter 16 Tribal Gaming and regulations are in need of certain amendments to fully effectuate the changes and regulations from the increased scope of gaming from the new Compact approval.

Now Therefore, Be it Ordained, by Tribal Council of the Eastern Band of Cherokee Indians, assembled at which a quorum is present, that the following sections of the Cherokee Code shall be amended as follows:

**Sec. 16-1.05. Class III Gaming authorized.**

All forms of Class III Gaming that is listed in Exhibit 1 to the Addendum to the Restated Tribal-State Compact entered on November 28, 2011 and amended in May 2012 and fully approved by the Secretary of the Department of Interior on \_\_\_ day of \_\_\_, 2012 is hereby authorized on lands within the Tribe's Indian lands; provided, however, that Class III Gaming shall be conducted in accordance with the provisions of this chapter, the rules and regulations of the Commission, IGRA, the NIGC's regulations, and the Compact.

**Sec. 16-1.05A. Class III Casino Credit Issuance Authorized**

Casino operations are hereby empowered to make credit worthiness decisions on players to issue casino credit to players that meet requirements which shall be at least as stringent as standard casino industry practice currently requires and the Tribal Gaming Commission promulgates in the Internal Control Standards. These standards shall set forth a level of protection for Tribal assets and for the safe and effective operation of casino credit.

**Sec. 16-1.06. Location of gaming.** The Commission shall ensure that:

- (1) Such gaming as it authorizes and licenses pursuant to this chapter is conducted on lands within the Tribe's Indian lands; and
- (2) Such gaming is not otherwise specifically prohibited by federal law.
- (3) There are up to three (3) locations permitted for Class III Gaming to be conducted. The property considered as location #1 shall always be recognized as the casino located in the town of Cherokee on the Qualla Boundary alongside Soco Creek bordering Highway 19N; the second and third locations shall be approved by order of the Tribal Council and

Principal Chief following a full study by the TCGE Board of Advisors and the Tribal Gaming Commission. All additional gaming locations shall meet all requirements under this Chapter and any requirements mandated by federal law and the Tribal-State Compact.

**Sec. 16-1.07. Ownership of gaming.**

The Tribe shall have the sole proprietary interest in any gaming operation authorized by this chapter and hereby authorizes and directs the casino operations to make all payments and satisfy all obligations on behalf of the Tribe in its payment obligations contained under the Tribal-State Compact or Federal and Tribal law.

**Sec. 16-1.08. Use of gaming revenue.**

(a) Net revenue from tribal gaming shall be used only for the purposes set forth in this section.

- 1) To fund tribal government operations and programs;
- 2) To provide for the general welfare of the Tribe and its members;
- 3) To promote tribal economic development;
- 4) To donate to charitable organizations; and
- 5) To help fund operations of Tribal government agencies

(b) The Tribe has elected to make per capita payments, in the amount of 50% of distributable net revenue from both Class II and Class III gaming activities, to enrolled tribal members, and shall authorize and issue such payments only in accordance with a revenue allocation plan submitted to and approved by the Secretary of the Interior under 25 U.S.C. § 2710(b)(3), as set forth in chapter 16C of the Cherokee Code.

(c) Nothing in this section shall be construed to require that a gaming operation or the Commission distribute funds that are not distributable net revenue.

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

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

- (a) The Commission budget shall be partially funded as an operating expense of the Tribal Casino Gaming Enterprise (TCGE). The TCGE shall fund all actual direct expenses related solely to the Commission's regulation of the gaming activities of the TCGE. Such payment shall be the lesser of the actual regulatory cost or an amount which is two-thirds of one percent (0.66%) of the gross gaming revenue (win) but in no event more than \$                      (filled in following consultation/work session with Tribal Council) \$1,500,000 for the fiscal year. For each year after fiscal year 2004, the capped amount shall increase 5% annually to account for growth and economy. Any surplus of such funds over actual expenses at the end of a fiscal year shall be refunded to the TCGE within 120 days of the end of the fiscal year.
- (b) The Tribal Bingo Enterprise (TBE) shall fund all actual direct expenses related solely to the Commission's regulation of the gaming activities of the TBE.
- (c) If the Commission's budget needs exceed the amounts in subparagraphs (a) and (b) for any fiscal year, then the Commission shall utilize funds obtained through licensing fees and regulatory fines, or seek additional funding from the Tribal Council. Except as provided in subparagraph (d), below, any surplus remaining in such fees, fines or additional funding at the end of a fiscal year shall be distributed to the Tribe in accordance with Chapter 16C.

- (d) The Commission shall have the authority to establish, fund, and maintain capital/expansion reserve funds for:
- (1) Working capital in an amount recommended by the independent auditors; and
  - (2) For such other purposes as are specifically authorized for gaming regulatory purposes by a Tribal Council ordinance based upon a detailed plan for use of the funds submitted by the Commission.
- (e) The Commission budget shall be amended and follow the same budgetary formula for any additional gaming facilities that are established by the Tribe in accordance with Sec. 16-106 of this Chapter and the Tribal-State Compact.

**Sec. 16-4.11. Certification of gaming devices.**

All gaming devices purchased, leased or otherwise acquired by the Tribe must, ~~puruant to section 6 of the Compact,~~ meet the technical equipment standards set forth in this Chapter and the Internal Control Standards issued by the Commission therein. The Commission shall maintain a complete list of all gaming devices (whether or not such devices are in use) located at any gaming establishment.

BE IT FINALLY ORDAINED THAT these amendments to the Cherokee Code shall be effective upon ratification by the Principal Chief.

*Submitted By: Cherokee Tribal Gaming Commission:  
Chairman Don Rose  
Vice-Chairman Bob Blankenship  
Commissioner Sheila Brown*

**Amendments to redlined version in Council packet:**

1. Amended to include table of contents
2. Sec. 16-1.05. Class III Gaming authorized. "...and amended in May 2012 and fully approved ***and published*** by the Secretary of the Department of Interior." (delete red-line verbiage here, and paragraph continues as is).
3. Sec. 16-1.06. Location of gaming. (3) Strike the word "additional" from this paragraph.
4. Sec. 16-1.08 Use of gaming revenue. Strike (a)(5) in its entirety.
5. Sec. 16-2.13. Budget (a) insert the amount of ***\$3 million dollars*** in the blank. Add the following verbiage to (a) "...of the fiscal year. ***Upon completion of the TCGE audit, any excess funds will be returned immediately following the per capita distribution ordinance.***"
6. Sec. 16-1.06. Location of gaming. (3) Strike "order of the Tribal Council" and replace with "...by ***Tribal Council resolution and ratified by the*** Principal Chief..."
7. Sec. 16-2.13. Budget. Strike (e) in its entirety.
8. Sec. 16-1.06. Location of gaming. (3) Amend "...by the TCGE Board of Advisors." Strike "...and the Tribal Gaming Commission" from (3).

The attached Resolution/Ordinance No. 244 dated July 6, 2012 was:

**PASSED ( X )**

**KILLED ( )**

and ratified in open Council on August 2, 2012 by 75 voting for the act and 0 members voting against it as follows:

VOTE	FOR	AGAINST	ABSTAIN	ABSENT	TABLE
Bo Taylor				X	
Perry Shell	X				
Gene Crowe	X				
Mike Parker	X				
David Wolfe	X				
Bill Taylor	X				
Jim Owle				X	
Diamond Brown				X	
Adam Wachacha	X				
Alan Ensley	X				
Terri Henry	X				
Tommye Saunooke	X				
<b>Total:</b>	75	0	0	25	0

  
\_\_\_\_\_  
TRIBAL COUNCIL CHAIRMAN

  
\_\_\_\_\_  
CLERK

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

APPROVED (✓)

VETOED ( )

VETO UPHELD ( ) VETO DENIED ( )

DATE: 8-8-12

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

**PASSED ( )**

**KILLED ( )**

and ratified by Council Chairperson, Clerk, and Principal Chief of the Eastern Band of Cherokee Indians.

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 26 2012

Cherokee Council House  
Cherokee, North Carolina  
OCT 01 2012  
(Date)

ORDINANCE NO. 360 (2012)

**WHEREAS**, Ordinance #244 (2012) was amended and passed by Tribal Council on August 2, 2012 and properly ratified by the Principal Chief on August 8, 2012, and

**WHEREAS**, our Attorney General promptly sent the changes to the National Indian Gaming Commission (NIGC) in Washington, DC for approval as required under the Indian Gaming Regulatory Act (IGRA), and

**WHEREAS**, the NIGC has reviewed the Ordinance and has requested sections of the Ordinance be amended by Tribal Council prior to its approval.

**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 sections of the Cherokee Code – Chapter 16 shall be amended as follows:

**Sec. 16-2.13(a):** ...For each year after fiscal year ~~2004~~2013, the capped amount shall increase 5% annually to account for growth and economy....

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

(1) "In compliance with the Privacy Act of 1974, ~~as amended~~, 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. ~~employed in a gaming operation or to be licensed to do business with a gaming operation.~~ The information will be used by the Tribal gaming regulatory authorities and by the Commission, the State of North Carolina, and/or the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate ~~f~~Federal, Tribal, ~~s~~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 ~~T~~Tribe or the National Indian Gaming Commission in connection with the issuance, denial, hiring or firing of an employee, the issuance 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 ~~T~~Tribe's being unable to license/hire you for/in a primary management official or key employee position. ~~or to conduct business with you."~~

(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, not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment. (U.S. Code, title 18, section 1001+8 U.S.C. 1001)"

**BE IT FINALLY ORDAINED** that this Ordinance shall become effective upon ratification by the Principal Chief.

Submitted By: Cherokee Tribal Gaming Commission  
Chairman Don Rose  
Vice-Chairman Bob Blankenship  
Commissioner Sheila Brown

The attached Resolution/Ordinance No. 360 dated October 01, 2012 was:

**PASSED ( X )**

**KILLED ( )**

and ratified in open Council on October 26, 2012 by 62 voting for the act and 0 members voting against it as follows:

VOTE	FOR	AGAINST	ABSTAIN	ABSENT	TABLE
Bo Taylor				x	
Perry Shell				x	
Gene Crowe				x	
Mike Parker	X				
David Wolfe	X				
Bill Taylor	X				
Jim Owle	X				
Diamond Brown				x	
Adam Wachacha	X				
Alan Ensley	X				
Terri Henry				x	
Tommye Saunooke	X				
	62	0	0	38	0

  
TRIBAL COUNCIL CHAIRMAN

  
CLERK

  
PRINCIPAL CHIEF

APPROVED (✓)

VETOED ( )

VETO UPHeld ( ) VETO DENIED ( )

DATE: 10-26-12

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

**PASSED (✓)**

**KILLED ( )**

and ratified by Council Chairperson, Clerk, and Principal Chief of the Eastern Band of Cherokee Indians.

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 ( )