

TABLED

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

Date: FEB 04 2016

ORDINANCE NO. 116 (2016)

TITLE: Animal Control - Bears in Captivity Ordinance

WHEREAS, The Eastern Band of Cherokee Indians has inherent authority as a self-governing political body to make its own laws to protect the health and welfare of its membership and promote a safe community;

WHEREAS, Cherokee Code Chapter 19, serves to regulate the ownership, possession and use of animals within the territorial jurisdiction of the Eastern Band of Cherokee Indians;

WHEREAS, Cherokee Code Chapter 19 Article I, entitled "Animal Control" serves to regulate the ownership, possession, treatment and disposal of animals within the territorial jurisdiction of the Eastern Band of Cherokee Indians;

WHEREAS, In order to ensure humane living conditions for captive bears, Cherokee Code § 19-16 should be amended as set forth herein.

NOW THEREFORE BE IT ORDAINED by the Tribal Council of the Eastern Band of Cherokee Indians assembled, at which a quorum is present, that Chapter 19-16 of the Cherokee Code be amended to clarify and update the minimum standards for facilities used for the captivity of legally acquired bears as follows:

C.C. § 19 ANIMALS

**ARTICLE I.
ANIMAL CONTROL**

§ 19-16. - ~~Black bears.~~ Captive Bears.

The minimum standards for facilities used for captivity of legally acquired bears shall include the following:

- (1) Enclosure. ~~The bear must be maintained in a stationary, permanent metal cage constructed of iron or steel bars at least one fourth inch in diameter, or of heavy gauge~~

~~chainlink steel fencing, of dimensions not less than eight feet by 12 feet by six feet. The gate of such cage shall be equipped with a lock or with a safety catch. The cage shall have a concrete floor in which there shall be a drainable pool at least one and one-half feet deep containing not less than 18 square feet. There shall be running water provided immediately adjacent to the cage to provide for flushing the floor and for changing the pool during hot weather. The cage shall be located within a shaded area during the mid-day and afternoon hours of the summer months. The cage shall also include a den not smaller than five feet by five feet by four feet, which shall be constructed in such a manner that it may be cleaned regularly.~~ Bears held in captivity shall be held without caging under conditions simulating a natural habitat. All of the following conditions must exist to simulate a natural habitat in a holding facility:

- a. The method of confinement is by chain link fence, wall, moat, or a combination of such, without the use of chains or tethers.
- b. In no instance may bears be confined in pits or any underground enclosures.
- c. The area of confinement shall provide a minimum 50 square yards per bear, not including dens or any other off-exhibit areas.
- d. Bears are free, under normal conditions, to move throughout such an area.
- e. At least one-half of the area of confinement is wooded with living trees, shrubs and other perennial vegetation capable of providing shelter from sun and wind.
- f. The area of confinement contains running water and a pool not less than one and one-half feet deep and not less than four by five feet in size.
- g. Provision is made for a den for each bear to which the bear may retire for rest, shelter from the elements, or respite from public observation.
- h. The area of confinement presents an overall appearance of a natural habitat and affords the bears protection from harm, harassment or annoyance.
- i. Provisions are made for food and water that are adequate to maintain good health and for maintenance of sanitation.

~~(2) Sanitation. The floor of the cage shall be flushed daily with clean water. The enclosed den shall be flushed weekly. Disinfectant shall be used to flush the entire cage and den every 60 days. The cage shall have a removable food trough which shall be cleaned daily. Adequate food shall be available to the bear at all times.~~

(2) Education. The owners and care-givers of captive bears must provide to the Cherokee Fish and Game Management Program documentation of at least 100 hours of training in the proper care, husbandry, and welfare of captive bears in accordance with the standards set forth in this Section.

~~(3) Prohibited acts. It shall be unlawful to use collars, chains or stakes to confine a bear except as a temporary safety device. The use of lumber or timber in the outer cage shall be strictly prohibited.~~

(3) Enforcement. These minimum standards shall be enforced by the Cherokee Police Department and the Cherokee Fish and Game Management Program.

~~(4) Enrichment Required. Public display of bears at authorized businesses must include documented species appropriate enrichment procedures as approved by the Animal Control Department to promote well being.~~

(4) Violations of this section:

a. The first violation shall result in a fine not to exceed \$5,000.00. (Ord. No. 917, 9-13-2001)

b. Additional violations will result in:

i. Revocation of license

ii. A fine not to exceed \$20,000; and

iii. Seizure of and relocation of the bears to an approved animal sanctuary at the owner(s) expense. "Animal sanctuary" is defined as a retirement facility for captive wild animals that does not engage in breeding or the purchase or sale of animals, and which holds animals in conditions that meet or exceed the standards set forth in this Section.

~~(5) Enforcement. These minimum standards shall be enforced by the Cherokee Indian Police Department, the Natural Resource Enforcement or the Department of Agriculture.~~

~~(6) Violation of this section shall result in a fine not to exceed \$5,000.00.~~

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

Submitted by Principal Chief, Patrick H. Lambert.