

TABLED

Cherokee Council House
Cherokee, Qualla Boundary (NC)

Date: OCT 05 2015

ORDINANCE NO. 7

WHEREAS, Tribal Council Ordinance 768 (2011) was enacted to provide for sovereignty for the Eastern Band of Cherokee Indians in regulating alcohol; and

WHEREAS, in furtherance of this sovereignty North Carolina in June 2015 made clear that the Tribal Alcoholic Beverage Control Commission has authority to regulate commercial activity in EBCI Indian Country; and

WHEREAS, it is necessary to amend Ordinance 768 (2011) so that the EBCI can exercise its sovereignty by the TABCC issuing commercial activity permits.

NOW THEREFORE BE IT ORDAINED by the Tribal Council of the Eastern Band of Cherokee Indians assembled, at which a quorum is present, that Cherokee Code Sections 18B-112(b) and (d) are amended to read as follows:

Sec. 18B-112. -- Tribal Alcoholic Beverage Control.

[all other subsections except for (b) and (d) remain unchanged]

(b) Compliance required. The Eastern Band of Cherokee Indians shall comply with the following provisions of Chapter 18B of the North Carolina General Statutes to the extent they apply to or can be made applicable to the Tribe:

...

(7) ~~Article 10. - Retail Activity, except for G.S. 18B-1001.1, 18B-1001.2, and 18B-1001.3. Activity. Retail Activity.~~

(8) Article 11. - Commercial Activity, as clarified by the following:

a. Tribal Alcoholic Beverage Control Commission may issue commercial activity permits to any qualifying applicant that establishes a commercial business wholly on Indian Country lands and shall have sole enforcement authority over any permittee receiving a permit from Tribal Alcoholic Beverage Control Commission only to the extent the regulated conduct occurs on Indian Country lands.

b. The Eastern Band of Cherokee Indians shall recognize any permit issued by the North Carolina Alcoholic Beverage Control Commission allowing commercial activity in the same manner as if such permit was issued by the Tribal Alcoholic Beverage Control Commission. The North Carolina Alcoholic Beverage Control Commission shall recognize any commercial

activity permit issued by the Tribal Alcoholic Beverage Control Commission in the same manner as if the permit were issued by the North Carolina Alcoholic Beverage Control Commission.

- c. The North Carolina Alcoholic Beverage Control Commission shall retain exclusive enforcement authority over all permits it issues to commercial activity permittees for violations of its rules or Chapter 18B of the North Carolina General Statutes.

Any provision of Articles 12 and 13 of this Chapter which has not been made applicable to the Eastern Band of Cherokee Indians by this section shall act as a bar to engaging in activity authorized by that article or section.

...

(d) Establishment of a Tribal Commission. – In accordance with the provisions of 18 U.S.C. § 1161, the Eastern Band of Cherokee Indians is authorized to establish a tribal alcoholic beverage control commission to regulate the purchase, possession, consumption, sale, and delivery of alcoholic beverages ~~at retail~~ on any land designated as Indian Country pursuant to 18 U.S.C. § 1151 under the jurisdiction of the Eastern Band of Cherokee Indians. The tribal commission shall have exclusive authority to issue ~~retail~~ ABC permits to retail and commercial establishments located wholly on Indian Country lands under the jurisdiction of the Eastern Band of Cherokee Indians and to regulate the purchase, possession, consumption, sale, and delivery of alcoholic beverages ~~at retail~~ permitted outlets and premises. Permits issued by the tribal commission pursuant to this section shall be deemed issued by the State for the purposes of sales and delivery of beer and wine by wholesalers to the retail outlets located on Indian Country lands. The fees generated by the tribal alcoholic beverage control commission for the issuance of retail permits may be retained by the Eastern Band of Cherokee Indians to offset costs of operating the tribal alcoholic beverage control commission.

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

Submitted by the Tribal Alcoholic Beverage Control Commission