

NATIONAL
INDIAN
GAMING
COMMISSION

DEC - 7 1993

Raymond King, Chairman
Northern Cheyenne Reservation
Gaming Commission
P.O. Box 128
Lame Deer, Montana 59043

Dear Chairman King:

This letter responds to your request to review and approve the tribal gaming ordinance submitted on September 8, 1993, for the Northern Cheyenne Indian Tribe (Tribe). This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

Under the IGRA and the regulations of the National Indian Gaming Commission (NIGC), the Chairman is directed to review ordinances with respect to the requirements of the IGRA and the implementing regulations. Thus, the scope of the Chairman's review and approval is limited to the requirements of the IGRA and the NIGC regulations. Provisions other than those required under the IGRA or the NIGC regulations that may be included in a tribal ordinance are not subject to review and approval. Also, such approval does not constitute approval of specific games.

It is important to note that the gaming ordinance is approved for gaming only on Indian lands as defined in the IGRA.

With the Chairman's approval of the Tribe's gaming ordinance, the Tribe is now required to conduct background investigations on its key employees and primary management officials. The NIGC expects to receive a completed application for each key employee and primary management official pursuant to 25 C.F.R. § 556.5(a) and an investigative report on each background investigation before issuing a license to a key employee or primary management official pursuant to 25 C.F.R. § 556.5(b).

Thank you for submitting the ordinance of the Northern Cheyenne Indian Tribe for review and approval. The NIGC staff and I look forward to working with you and the Tribe in implementing the IGRA.

Sincerely yours,

Anthony J. Hope
Anthony J. Hope
Chairman

APPROVED

TRIBAL COUNCIL OF THE NORTHERN CHEYENNE
NORTHERN CHEYENNE RESERVATION
LAME DEER, MONTANA

ORDINANCE NO. 13 (93)

An Ordinance of the Northern Cheyenne Tribal Council authorizing and regulating Class II and Class III gaming within the exterior boundaries of the Northern Cheyenne Indian Reservation and establishing a Northern Cheyenne Reservation Gaming Commission to oversee and regulate gaming within the exterior boundaries of the Northern Cheyenne Reservation.

WHEREAS, pursuant to the Tribe's Constitution and Bylaws, the Northern Cheyenne Tribal Council of the Northern Cheyenne Indian Reservation, has the sovereign right and duty to set the terms and to regulate gaming activities which occurs within the exterior boundaries of the Northern Cheyenne Indian Reservation; and,

WHEREAS, the U.S. Congress has enacted the Indian Gaming Regulatory Act, and regulations have been developed to implement the Indian Gaming Regulatory Act which the Northern Cheyenne Tribal Council recognizes as the overriding controlling federal law that both the Northern Cheyenne Indian Reservation and the State of Montana must follow in any gaming which occurs within the exterior boundaries of the Northern Cheyenne Indian Reservation; and,

WHEREAS, the Northern Cheyenne Tribal Council has entered into an Agreement with the State of Montana concerning Class III gaming within the exterior boundaries of the Northern Cheyenne Indian Reservation that defines the games and the limits on those games; now,

THEREFORE BE IT ORDAINED with the above in mind, the Northern Cheyenne Tribal Council has drafted and enacted into law the following ordinance, to be called the Northern Cheyenne Reservation Gaming Ordinance and if there are any major changes this ordinance must be brought back to the Council for its approval.

I. Gaming Authorized

Class II gaming as defined in the Indian Gaming Regulatory Act and by the regulations promulgated by the National Indian Gaming Commission is hereby authorized by the Northern Cheyenne Tribal Council, with the regulating of gaming to be done by the Northern Cheyenne Reservation Gaming Commission. Class III gaming as defined in the Indian Gaming Regulatory Act and promulgated regulations, which is authorized by the Class III Agreement the Tribe has with the State of Montana, is hereby authorized by the Northern Cheyenne Tribal Council with the regulating of such Class III gaming to be done by the Northern Cheyenne Reservation Gaming Commission.

II. Ownership of Gaming

The Northern Cheyenne Tribe shall have the sole propriety interest in and responsibility for the conduct of any gaming authorized by this ordinance.

III. Use of Gaming Revenue

Net revenues from tribally gaming shall be used only to fund the Northern Cheyenne Youth Reservation Program, the NCR Elderly Program, the NCR Health Program, or the NCR Education Program. Fifty percent of the net revenues shall be budgeted by the Northern Cheyenne Tribal Council to the above tribal programs. No per capita payments shall be paid by the Northern Cheyenne Tribal Council with gaming net revenue.

IV. Audit

The Tribe shall annually cause to be conducted an independent audit of Northern Cheyenne Reservation tribal gaming operation and shall submit a copy of the resulting audit to the National Indian Gaming Commission. Any gaming related contract that results in the purchases of supplies, services, or concessions in excess of \$25,000.00 annually shall be specifically included within the scope of this audit. This audit shall include a yearly inventory.

V. Protection of the Environment, Public Health and Safety

Class II and III Gaming facilities shall be constructed, maintained, and operated in a manner that adequately protects the environment, public health and safety.

VI. The Selection, Responsibilities, Duties Powers, and Authorities of the Northern Cheyenne Reservation Gaming Commission

1. A five person Northern Cheyenne Reservation Gaming Commission will be selected by the Tribal Council President. Each Commissioner shall be vested with authority upon confirmation of their selection by the Northern Cheyenne Tribal Council. Removal of a Commission shall be by the Tribal Council President, for cause, in writing, with the reasons for such removal listed on the removal letter. Vacancies shall be filled by the Tribal Council President with Tribal Council concurrence. Commissioners shall be paid for meetings and for work they perform on Commission business. The Commission shall operate from a budget that the Tribal Council shall set each fiscal year. Commissioners shall be composed of three tribal council members and two community at large representatives. All Commissioners shall be people of very high integrity. If possible, all of the five districts should be represented on the Commission. The Commissioners shall have two

ORDINANCE NO. 13 (93)

PAGE 3.

year terms, however, vacancies shall serve out the original term appointment only. Commissioners shall have authority until replaced by another Commissioner who was concurred in by the Northern Cheyenne Tribal Council.

2. The Northern Cheyenne Reservation Gaming Commission is to develop their own gaming operating plan and the necessary regulations which will guide them in their duties as Commissioners. Copies of these plans and regulation shall be sent to the National Indian Gaming Commission, after the Northern Cheyenne Tribal Council adopts the plan and regulations.

3. The Northern Cheyenne Reservation Gaming Commission is delegated by the Northern Cheyenne Tribal Council the complete responsibility, duty, power, and authority to see that gaming activities within the exterior boundaries of the Northern Cheyenne Indian Reservation are concluded in adherence to this Gaming Ordinance, the Agreement that the Tribal Council has with the State of Montana concerning Class III Gaming, and the Indian Gaming Regulatory Act and its regulations. The Northern Cheyenne Tribal Council President nor the Northern Cheyenne Tribal Council shall interfere with the Commission - however the Tribal Council President may remove any Commissioner, with the removal reasons listed, and the Northern Cheyenne Tribal Council may amend this Gaming Ordinance or the Class III Agreement with Montana. Absolutely no games will be authorized to be conducted within the exterior boundaries of the Northern Cheyenne Indian Reservation if that game is prohibited in the Class III Compact that the Tribe has with the State of Montana.

4. The Northern Cheyenne Reservation Gaming Commission shall not license any individuals within the exterior boundaries of the Northern Cheyenne Indian Reservation to operate any game listed in the Class III Agreement that the Tribal Council has with the State of Montana.

5. The Northern Cheyenne Reservation Gaming Commission shall attempt to establish one or more tribally owned and operated gaming locations or facilities. The Commission is authorized to lease or buy gaming machines, such leases or purchase contracts to be signed off on by the Tribal Council President and the Chairman of the Northern Cheyenne Gaming Commission.

6. The Northern Cheyenne Reservation Gaming Commission is authorized to rent space from tribal members who have businesses so the Gaming Commission can place tribally owned gaming machines in these existing businesses. The space rental agreement can be for a flat lease of space or a percentage of the net profit from the tribally owned machines located in that tribal member's business. The tribal members who leases the Commission space will not perform any management for the Tribes gaming so individual management

contracts with these members will not be necessary. The gaming operating plan will contain the rules for space rental.

7. The Northern Cheyenne Reservation Gaming Commission is authorized to establish and sell tobacco products to tribal members through and at the outlets where tribally owned gaming machines will be located.

8. The Northern Cheyenne Reservation Gaming Commission is authorized to sanction and regulate charity fund raising bingo games that the community requests as well as turkey shoots, hand games, private house card games, non-parimutuel horse races, carnival community raffles, and sports pools. The Gaming Commission will set the rules and conditions for any game - prior to that activity commencing, which will guarantee that promised payouts can be made by the organization.

9. The Northern Cheyenne Reservation Gaming Commission is expected by the Northern Cheyenne Tribal Council to set up exacting procedures so that all revenues that the Tribe earns from gaming activities is identified and remitted to the Tribal Council Treasurer. At least 50% of the net revenue shall be annually budgeted by the Tribal Council for youth, elderly, health, or education programs administered by the Northern Cheyenne Tribal Council.

10. The Northern Cheyenne Reservation Gaming Commission has the responsibility, duty, power and authority to investigate all complaints and will attempt to resolve disputes on gaming activities with the exterior boundaries of the Northern Cheyenne Indian Reservation. A list of the procedural steps that must be taken by the Northern Cheyenne Reservation Gaming Commission in attempting to resolve disputes between the gaming public, licensees, the Tribe, or the Northern Cheyenne Gaming Commission shall be developed by the Northern Cheyenne Gaming Commission and a copy of that procedural list shall be submitted to the National Indian Gaming Commission after the Northern Cheyenne Tribal Council enacts this list of procedures. Violation of this ordinance, the Class III Agreement with the State of Montana, or the Indian Regulatory Gaming Act will be prosecuted in the name of the Northern Cheyenne Reservation Gaming Commission.

11. The Northern Cheyenne Reservation Gaming Commission is authorized to enter into a long term Class III Agreement with the State of Montana. That long term agreement will be brought to the Tribal Council after negotiated for Tribal Council approval.

12. The Northern Cheyenne Reservation Gaming Commission is to prepare a detailed annual report on their accomplishments and the present condition of gaming on the Northern Cheyenne Reservation. This report shall be provided to the Northern Cheyenne Tribal

Council, and made available to the residents of the Northern Cheyenne Reservation.

VII. Licenses for Key Employees and Primary Management Officials

The Tribe, through the Northern Cheyenne Reservation Gaming Commission, shall license key employees and management officials, pursuant to the following section, for any Class II or Class III gaming activity within the exterior boundaries of the Northern Cheyenne Indian Reservation:

A. Definitions

1. Key Employee means a person who performs one or more of the following functions:
 - a. Bingo caller
 - b. Counting Room Supervisor
 - c. Chief of Security
 - d. Custodian of Gaming Supplier or cash
 - e. Floor manager
 - f. Pit boss
 - g. Dealer
 - h. Croupier
 - i. Credit approver
 - j. Custodian of gaming devices, including persons with access to cash and account records with such devices.
 - k. Any person whose total cash compensation is in excess of \$30,000 per year
 - l. the four most highly compensated persons in the gaming activity.

2. Primary Management Officials means a person who has management responsibility for a management contract, or any person who has the authority to hire and fire employees, or any person who has the authority to set up working policy for a gaming activity, or the person who is the chief financial officer who has financial management responsibility over a tribal gaming activity.

B. License Application Forms

1. The following notice shall be placed on the license application form before that form is filled out by an applicant:

In compliance with the 1974 Privacy Act, 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 employed in a gaming

activity operated by the Northern Cheyenne Tribe. The information will be used by 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 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 the Northern Cheyenne Tribe or the National Indian Gaming Commission in connection with the hiring and firing of an employee, the issuance or revocation of a gaming license, or investigation of activities while associated with the Northern Cheyenne Tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in the Northern Cheyenne Tribe being unable to hire you. The disclosure of your social security number is voluntary. However, failure to supply your social security number may result in errors in processing your application.

2. Existing key employees and primary management official shall be notified in writing that they shall either:

- a. Complete a new application form that contains a Privacy Act notice; or,
- b. Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

3. The following notice shall be placed on the application form before that form is filled out by an applicant:

A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also you may be punished by fine or imprisonment for your false statement according to U.S. Code, title 18, Section 1001.

4. Existing key employees and primary management officials shall be notified in writing that they shall either:

- a. Complete a new application form that contains a notice regarding false statements; or,
- b. Sign a statement that contains the notice regarding false statements.

C. Background Investigation

1. The Northern Cheyenne Tribe, through the Northern Cheyenne Reservation Gaming Commission, shall request from each key employee and from each primary management official all of the following information:

- a. Full name, other names used (oral or written), social security number(s), birthdate, place of birth, citizenship, gender, all languages (spoken or written);
- b. Currently and for the previous 5 years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;
- c. 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 paragraph (1) (b) of this section;
- d. Current business and residence telephone number;
- e. A description of any existing and previous business relationship with Indian tribes, including ownership interests in those businesses;
- f. a description of any existing and previous business relationship with the gaming industry generally, including ownership interests in those businesses;
- g. the name and address of any licensing or regulatory agency with which the person has filed as application for a license or permit related to gaming, whether or not such license or permit was granted;
- h. for each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;
- i. for each misdemeanor conviction or ongoing misdemeanor prosecution, within 10 years of the date of the application, the name and address of the court involved and the date and disposition;

- j. for each criminal charge, whether or not there is a conviction if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to paragraph (1.) (L) or (1) (1.) of this section, the criminal charge, the name and address of the court involved, and the date and disposition. The Northern Cheyenne Reservation Gaming Commission shall develop written procedure describing how a criminal history check will be conducted by the law enforcement agency that we hire to do this criminal history check. These procedures will be sent to the National Indian Gaming Commission.
- k. 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;
- l. a current photograph;
- m. any other information the Northern Cheyenne Tribe deems relevant, and
- n. fingerprints consistent with procedures adopted by the Northern Cheyenne Tribe, through the Northern Cheyenne Reservation Gaming Commission, according to 25 C.F.R., Section 522.2 (L). The Northern Cheyenne Reservation Gaming Commission shall identify a particular law enforcement agency to take finger prints and this agency will be forwarded to the National Indian Gaming Commission.

2. The Northern Cheyenne Tribe, through the Northern Cheyenne Reservation Gaming Commission, shall conduct an investigation sufficient to make a determination under subsection D. below. In conducting a background investigation, the Northern Cheyenne Tribe, though the Northern Cheyenne Reservation Gaming Commission, shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

3. The Northern Cheyenne Tribe, through the Northern Cheyenne Reservation Gaming Commission, shall develop a checklist describing the procedures that will be utilized by the Northern Cheyenne Reservation Gaming Commission, in conducting the background investigation and the checklist shall be forwarded to the National Indian Gaming Commission.

D. Eligibility Determination

The Northern Cheyenne Tribe, through the Northern Cheyenne Reservation Gaming Commission, shall review a persons prior activities, criminal record, if any, and reputation, habits, and associations to make a finding concerning the eligibility of an applicant for employment in a tribal gaming activity within the exterior boundaries of the Northern Cheyenne Indian Reservation.

If it is felt that employment of the applicant poses a threat to the public interest or to the effective reputation of gaming or creates or enhances dangers of unsuitable, unfair, or illegal practices and method and activities in the conduct of gaming, the Northern Cheyenne Reservation Gaming Commission nor any tribal gaming activity shall not employ that person.

E. Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission.

1. When a key employee or primary management official begins work at a tribal gaming operation authorized by this gaming ordinance, the Northern Cheyenne Tribe, through the Northern Cheyenne Reservation Gaming Commission, shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in subsection (D) of this section.

2. The Northern Cheyenne Tribe, through the Northern Cheyenne Reservation Gaming Commission, shall forward the report referred to in subsection (F) of this section to the National Indian Gaming Commission within 60 days after an employee begins work or within 60 days of the approval of this ordinance by the Chairman of the National Indian Gaming Commission.

3. The Tribal Gaming operation shall cease to employ any key employee or primary management official who does not have a license within 90 days after the application for license is submitted.

F. Report to the National Indian Gaming Commission

1. Pursuant to the procedure set forth in subsection (E) of this section, the Northern Cheyenne Tribe, through the Northern Cheyenne Reservation Gaming Commission, shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation. An investigative report shall include all of the following:

- a. Steps taken in conducting a background investigation
- b. results obtained;

- c. conclusions reached; and
- d. the basis for those conclusions

2. The Northern Cheyenne Tribe, through the Northern Cheyenne Reservation Gaming Commission, shall submit, with the report, a copy of the eligibility determination made under subsection D. of this section.

3. If a license is not issued to an applicant, the Northern Cheyenne Tribe, through the Northern Cheyenne Reservation Gaming Commission:

- a. Shall notify the National Indian Gaming Commission, and
- b. Shall forward copies of its eligibility determination and investigative report to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.

4. All employment applications and background investigation and reports shall be retained by the Northern Cheyenne Reservation Gaming Commission for inspection by the Chairman of the National Indian Gaming Commission for no less than 3 years from the date of employment termination.

G. Granting of License

1. If, within a 30 day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the Northern Cheyenne Tribe, through the Northern Cheyenne Reservation Gaming Commission, that it has no objection to the issuance of a license pursuant to the license application filed and the investigative report sent to the National Indian Gaming Commission, the Northern Cheyenne Tribe, through the Northern Cheyenne Reservation Gaming Commission, may issue a license to such applicant.

2. The Tribe, through the Northern Cheyenne Reservation Gaming Commission, shall respond to any request for additional information from the Chairman of the National Indian Gaming Commission concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30 day period under paragraph G. 1. of this section until the Chairman of the National Indian Gaming Commission receives the additional information.

3. If, within the 30 day period described above, the National Indian Gaming Commission provide the Northern Cheyenne Tribe, through the Northern Cheyenne Reservation Gaming Commission, with a statement listing objections to the issuance of a license,

the Northern Cheyenne Tribe, through the Northern Cheyenne Reservation Gaming Commission, shall reconsider the application, taking into account the objections listed. The Northern Cheyenne Tribe, through the Northern Cheyenne Reservation Gaming Commission shall made the final decision whether to issue a license to such applicant.

4. the Northern Cheyenne Tribe, through the Northern Cheyenne Reservation Gaming Commission shall develop a checklist describing the procedures that will be utilized by the Northern Cheyenne Reservation Gaming Commission in issuing a license to a key employee or a primary management official and this checklist shall be forwarded to the National Indian Gaming Commission.

H. License Suspension

1. If, after the issuance of a license, the Tribe, through the Northern Cheyenne Reservation Gaming Commission, receives from the National Indian Gaming Commission reliable information indicating that a key employee or a primary management official is not eligible for employment under subsection D. above, the Northern Cheyenne Tribe, through the Northern Cheyenne Reservation Gaming Commission, shall suspend such license and shall notify, in writing, the licensee of the suspension and proposed revocation.

2. the Northern Cheyenne Tribe, through the Northern Cheyenne Reservation Gaming Commission, shall notify the licensee of a time and a place for a hearing on the proposed license revocation.

3. After the revocation hearing, the Northern Cheyenne Tribe, through the Northern Cheyenne Reservation Gaming Commission, shall decide to revoke or to reinstate the license. The National Indian Gaming Commission shall be notified immediately of the decision.

VIII. License locations

The Northern Cheyenne Tribe, through the Northern Cheyenne Reservation Gaming Commission, shall also issue separate license to each place, facility, or location where Class II or Class III gaming is conducted pursuant to this ordinance.

IX. Agent

The Chairman of the Northern Cheyenne Reservation Gaming Commission is the person who is delegated by the Northern Cheyenne Tribal Council as the individuals on which all notices and service of process shall be made. That address will be:

Chairman Northern Cheyenne Reservation Gaming
Commission
P.O. Box 128
Lame Deer, Mt. 59043

X. Repeal

All prior Northern Cheyenne Tribal Council gaming ordinance or resolutions, including Ordinance 4 (91), are repealed upon execution of this ordinance by the Northern Cheyenne Tribal Council President and approval of this ordinance by the Chairman of the National Indian Gaming Commission.

PASSED, ADOPTED AND APPROVED by the Northern Cheyenne Tribal Council by 11 votes for passage and adoption and 3 votes against passage and adoption this 22nd day of June, 1993.



Llevando Fisher, President
Northern Cheyenne Tribal Council

ATTEST:



Debra L. Bearquiver, Secretary
Northern Cheyenne Tribal Council