

**THE LAW AND ORDER CODE
OF THE
NORTHERN CHEYENNE TRIBE**



**NORTHERN CHEYENNE RESERVATION
LAME DEER, MONTANA**

Northern Cheyenne Tribe Law and Order Code

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ATTACHEMENTS:

Northern Cheyenne Tribe Constitution and Bylaws



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

NORTHERN CHEYENNE AGENCY
LAME DEER, MONTANA 59043

IN REPLY REFER TO:

Executive Direction
Code 100

DEC 7 1998

Ms. Norma Gourneau, Acting President
Northern Cheyenne Tribe (NCT)
P. O Box 128
Lame Deer, Montana 59043

Dear Ms. Gourneau,

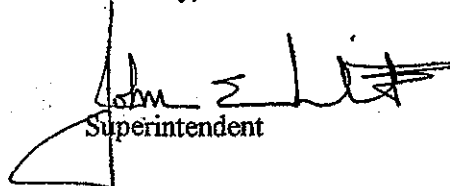
Enclosed is the original of the Northern Cheyenne Tribal Council Ordinance No. DOI 002 (99) enacted by the Council on November 6, 1998 and received in this office on November 23, 1998.

Ordinance No DOI 002 (99) - sets forth procedures governing hearings before the Tribal Council.

The Northern Cheyenne Tribal Council has the authority to take this action via Article IV, Section 1 (I)(r) of the Constitution and By-laws.

All necessary copies of this ordinance have been retained for our files.

Sincerely,



Superintendent

**NORTHERN CHEYENNE TRIBAL COUNCIL
NORTHERN CHEYENNE RESERVATION
LAME DEER, MONTANA**

ORDINANCE NO. DOI-002(99)

**AN ORDINANCE OF THE NORTHERN CHEYENNE TRIBAL COUNCIL
SETTING FORTH PROCEDURES GOVERNING HEARINGS BEFORE THE
TRIBAL COUNCIL.**

WHEREAS, the Northern Cheyenne Tribal Council is the governing body of the Northern Cheyenne Indian Reservation by authority vested in it pursuant to the Amended Constitution and By-laws of the Northern Cheyenne Tribe as approved by the Secretary of the Interior on May 31, 1996; and

WHEREAS, pursuant to Article IV, Section 1(i), of the Amended Constitution and By-laws of the Northern Cheyenne Tribe, the Tribal council is authorized to promulgate ordinances; and

WHEREAS, the Tribal Council desires to adopt uniform procedures to govern Tribal Council hearings to promote the fair application of justice;

WHEREAS, the Tribal Council has caused this Hearing Procedure Ordinance to be promulgated; and

WHEREAS, the Tribal Council has reviewed the Ordinance and believes that the Ordinance will assist the Council in providing for the fair administration of justice.

NOW, THEREFORE BE IT RESOLVED, that the Northern Cheyenne Tribal Council hereby adopts the Northern Cheyenne Tribal Council Hearing Procedure Ordinance attache hereto.

PASSED, ADOPTED AND APPROVED by the Northern Cheyenne Tribal Council by 10 votes for passage and adoption and 0 votes against passage and adoption and 0 vote abstaining on this 6th day of November, 1998.

Norma Gourneau
Norma Gourneau, Acting President
Northern Cheyenne Tribal Council

ATTEST:

Sharlene Evans
Sharlene Evans, Secretary
Northern Cheyenne Tribal Council

APPROVED: *[Signature]*

SUPERINTENDENT

DEC 7 1998

NORTHERN CHEYENNE TRIBAL COUNCIL HEARING PROCEDURE ORDINANCE

I. GENERAL SECTION

1-1-1 General Statement.

The Northern Cheyenne Tribe and Tribal entities are generally protected by the doctrine of sovereign immunity. This doctrine prohibits courts from exercising jurisdiction over the Tribe or any Tribal entity unless the Tribe expressly and unequivocally waives the Tribe's or a Tribal entity's immunity from suit. The Tribal Council has expressly waived immunity from suit in some instances. Court's of competent jurisdiction can entertain jurisdiction over the Tribe involving such waivers.

The Tribal Council recognizes that there are times when the Tribal Council is required or asked to decide certain matters that a court cannot entertain due to lack of jurisdiction. In order for the Tribal Council to entertain such matters, a hearing before the Tribal Council may be necessary. The Tribal Council believes that firm policies and procedures should be promulgated and adopted governing hearings before the Tribal Council. It is to this end that the Tribal Council adopts this Ordinance. This Ordinance shall govern all hearings before the Tribal Council.

1-1-2 Scope of Tribal Council Review.

The Tribal Council shall only hear those matters it is empowered to hear pursuant to its Constitution, Ordinance, or Resolution. In its discretion, the Tribal Council may also hear any case involving the Tribe that has been denied review by the Northern Cheyenne Court or any other court due to the doctrine of sovereign immunity. Under no circumstances will the Tribal Council review any case that is subject to the jurisdiction of the Northern Cheyenne Tribal Court or any other court. Furthermore, this Ordinance shall not be construed to compel the Tribal Council to review a case that the Tribal Court has refused to decide due to lack of jurisdiction.

1-1-3 Definitions.

- (a) As used in this Ordinance, the following definitions apply:
1. "Tribal Council" shall mean the Northern Cheyenne Tribal Council.
 2. "Petitioner" shall mean any person or entity that files a petition or complaint before the Tribal Council.
 3. "Respondent" shall mean any person or entity that is required to respond to the petition.

1-1-4 Amendments and Severability.

This Ordinance may be altered, amended or added to from time to time. Such alterations, additions, or amendments shall be binding and of full force and effect as of the date of adoption by the Tribal Council. Furthermore, in the event that any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision. The provisions of this Ordinance are severable.

1-1-5 Limitation on Actions.

No petition seeking relief from an act or omission that occurred over one year prior to the date of the filing of the petition shall be heard by the Tribal Council.

1-1-6 No Waiver or Binding Affect.

This Ordinance shall not be construed to waive the sovereign immunity of the Northern Cheyenne Tribe or any of its entities, boards, committees or employees. Any relief provided a petitioner pursuant to a hearing held under this Ordinance shall not be binding upon the Tribal Council regarding any future petitions.

II. FILING & INITIAL REVIEW

1-2-1 Filing of Petition.

(a) A petition for hearing or complaint to the Tribal Council must be filed with the Northern Cheyenne Tribal Secretary. The petition must be typewritten or legibly printed. When the petition is illegible, the Secretary may refuse to accept the petition. A petition must be sworn to by the petitioner and set forth:

1. The name, address and telephone number of the petitioner or the petitioner's legal representative;
2. The grounds of the petition;
3. The issues raised by the petition;
4. Whether the petitioner seeks to hold an evidentiary or review hearing before the Council. Full evidentiary hearings should be held on complaints against a councilman or officer of the Tribe. Review hearings may be held when the Council is asked to review the decision of a Tribal Board or Committee;
5. The relief the petitioner is seeking;

6. A list of the persons that may be affected by the petition; and

7. A statement certifying that any person or entity that may be affected by the petition has been served a copy of the petition.

(b) The Secretary shall note the date the petition was filed, assign it a petition number, and immediately forward the Petition to the Tribal President's office. The Petition shall be deemed filed with the Tribal Council on the date it is received by the Secretary.

1-2-2 Initial Review of Petition.

Upon receipt of a petition, the Secretary will decide whether the petition is one that may generally be entertained by the Tribal Council. The Secretary shall notify the petitioner and all other interested parties in writing as to whether the petition is one that may be entertained by the Tribal Council. If so, the Secretary shall forward the petition to the Tribal President for distribution to the Tribal Council. The petitioner shall be given written notification of the Tribal Council's decision to hear the petition within (30) day of the filing of the petition. This notification shall be sent to all interested parties and shall set forth the date the hearing shall be held. Petitions shall be set for hearing in the order in which the petitions are filed. However, the Tribal Council reserves the right to accelerate cases of particular significance.

1-2-3 Petitions Involving a Tribal Entity.

The Tribal President may require a representative of the Tribe or a Tribal entity to file a response to the petition or to furnish such information as the Presiding Officer determines to be necessary prior to the Tribal Council hearing or final determination of the case.

III. HEARING PROCEDURE

1-3-1 Presiding Officer.

The President or his designate shall act as the Presiding Officer over any hearing. The Presiding Officer is charged with performing all duties and functions necessary to determining the matter. The Presiding Officer is empowered with the authority to dismiss a petition when the petitioner has failed to prosecute the petition or failed to comply with an order issued by the Presiding Officer.

1-3-2 Filing of Papers.

Any briefs or other papers a petitioner or respondent may desire to file with the Tribal Council shall be filed with the Secretary. An original and one copy shall be filed. Any papers filed with the Secretary must be accompanied by a certification that the paper was mailed to or otherwise served upon the respondent or any other interested party to the petition.

1-3-3 Swearing of Witnesses.

(a) All testimony in any proceedings before the Tribal Council shall be given under oath administered by the Presiding Officer in substantially the following form:

"Do you solemnly swear that the testimony you are about to give is the truth, the whole truth and nothing but the truth, so help you God."

1-3-4 Hearing Procedure.

(a) The procedure concerning evidentiary hearings shall be as follows:

1. Docket call by the Presiding Officer;
2. Opening argument by the Petitioner unless waived.
3. Opening argument by the Respondent unless waived.
4. Presentation of evidence by Petitioner. Respondent shall be allowed to cross-examine Petitioner's witness with re-direct by Respondent and re-cross by Petitioner until there are no more questions for witnesses. The Tribal Council and Presiding Officer shall be given an opportunity to ask the witnesses any questions prior to their dismissal.
5. Presentation of evidence by Respondent. Petitioner shall be allowed to cross-examine Respondent's witnesses with re-direct by Petitioner and re-cross by Petitioner until there are no more questions for witnesses. The Tribal Council and Presiding Officer shall be given an opportunity to ask the witnesses any questions prior to their dismissal.
6. Rebuttal evidence by Petitioner.
7. Rebuttal evidence by Respondent.
8. Closing argument by Petitioner.

9. Closing argument by Respondent.
10. Reply to Respondent's closing argument by Petitioner.

(b) Procedure concerning review hearings shall be:

1. Argument by Petitioner
2. Argument by Respondent.
3. Reply by Petitioner.

The Tribal Council may ask questions any time during the arguments.

1-3-5 Tribal Council's Decision.

The Tribal Council as a whole will decide the issues raised by a petition. A quorum must be present to conduct a hearing. Only those Tribal Council members present at all time during the hearing may vote on the decision concerning the petition. The presiding officer is not entitled to vote on the decision unless the presiding officer is the President or a council member and then such person will only be allowed to vote in the case of a tie. Regarding removal hearings, a two-thirds vote of the Council is necessary to remove any Council member or officer. The Tribal Council's decision shall be made in writing and published within 45 days of the hearing. The Tribal Council's decision concerning any and all issues raised by the petition shall be final and not subject to appeal.

IV. EVIDENCE

1-4-1 Evidence.

(a) The Tribal Council may consider all evidence presented at the hearing as long as it is relevant to the issue presented at the hearing.

(b) Members of the Tribal Council may utilize their personal experience, technical competence and specialized knowledge in the evaluation of the evidence presented at a hearing.

(c) Carbon copies, photographic copies, and copies made by duplicating machines may be admitted into evidence or substituted in evidence in place of original documents.

(d) Witnesses intended to give opinion testimony as experts must be qualified as such, and their qualifications should be submitted in advance to the Presiding Officer.

(e) The presiding officer shall decide all evidentiary issues.

V. RECORD OF HEARING

1-5-1 Record of the Hearing.

Hearings shall be recorded by electronic means and transcripts of such recordings shall be made at the expense of the party requesting the transcript. The Secretary is only required to keep a record of the Hearing for five (5) years.