

NATIONAL
INDIAN
GAMING
COMMISSION

MAY - 4 1995

Gregg J. Bourland, Chairman
Cheyenne River Sioux Tribe
P.O. Box 590
Eagle Butte, South Dakota 57625

Dear Chairman Bourland:

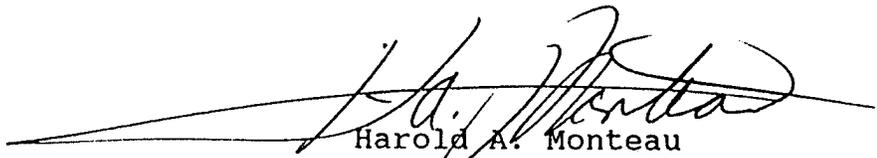
This letter responds to your request to review and approve the tribal gaming ordinance, Ordinance 53B, adopted on March 15, 1995, by the Cheyenne River Sioux Tribe (Tribe). This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

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 Cheyenne River Sioux 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,


Harold A. Monteau
Chairman

cc: Mark C. Van Norman, Esq.

**ORDINANCE 53B
CHEYENNE RIVER SIOUX TRIBE
GAMING ORDINANCE**

Compliance with the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq., by Enactment of Standard Provisions of the National Indian Gaming Commission Model Tribal Gaming Ordinance; Establishment of Tribal Gaming Commission for Licensing, Regulation and Enforcement; Designation of Tribal Police as Agency for Background Investigation

Section 1. Title, Authority and Purpose.

A. This Ordinance shall be known as the Cheyenne River Sioux Tribe Gaming Ordinance.

B. The Tribal Council, being vested with authority by the Constitution of the Cheyenne River Sioux Tribe to enact Ordinances to establish justice and promote the welfare of the Tribe, Chey. R. Sx. CONST. Art. IV, § 1 (1935), hereby enacts this ordinance to set the terms for class II and class III gaming operations on tribal lands, including all tribal trust lands and reservation lands. See Chey. R. Sx. CONST. Art. I (defining tribal territory).

C. In accordance with the National Indian Gaming Commission Bulletin No. 93-1, the Cheyenne River Sioux Tribe Gaming Ordinance sets forth subjects required by the Indian Gaming Regulatory Act in the standard provisions recommended in NIGC's Model Tribal Gaming Ordinance.

Section 2. Gaming Authorized.

A. Class II gaming as defined in the Indian Gaming Regulatory Act, 25 U.S.C. § 2703(7)(A) and the regulations promulgated thereunder is hereby authorized.

B. Class III gaming including, blackjack, poker, slot machines, video gaming machines, pari-mutuel horse and dog-racing, simulcasting, and lottery, is hereby authorized provided such games are authorized by and conducted in a manner consistent with a Class III Gaming Compact entered into between the Cheyenne River Sioux Tribe and the State of South Dakota.

Section 3. Ownership of Gaming.

The Tribe, or its wholly owned tribal corporation, shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this ordinance.

Section 4. Use of Gaming Revenue.

A. Net revenues from class II and class III gaming shall be used only for the following purposes: to fund tribal government operations and programs; provide for the general welfare of the Tribe and its members; promote tribal economic development; donate

to charitable organizations; or help fund operations of local government agencies.

B. If the Tribe elects to make per capita payments to tribal members, it shall authorize such payments only upon approval of a plan submitted to the Secretary of the Interior under to 25 U.S.C. § 2710(b)(3).

Section 5. **Audit.**

A. The Tribe shall require an independent audit of gaming operations to be conducted annually and the Tribe shall submit the resulting audit reports to the National Indian Gaming Commission.

B. All gaming related contracts that result in the purchase of supplies, services, or concessions in excess of \$25,000.00 annually, except for contracts for professional legal and accounting services, shall be specifically included within the scope of the audit that is described above in subsection A.

Section 6. **Protection of the Environment and Public Health and Safety.**

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

Section 7. **The Cheyenne River Sioux Tribe Gaming Commission.**

A. Tribal Gaming Commission Established. The Cheyenne River Sioux Tribe Gaming Commission (hereinafter the "Tribal Gaming Commission") is hereby established as an independent tribal agency to regulate Class II and Class III Gaming, see 25 U.S.C. § 2701 et seq., throughout the territory of the Tribe.

B. Tribal Gaming Commission Membership, Chairman, and Vice-Chairman. The Tribal Gaming Commission shall be composed of five members appointed by the Tribal Council. The Tribal Council shall designate one Tribal Gaming Commission member as Chairman, and one Tribal Gaming Commission member as Vice-Chairman.

C. Terms of Office.

(1) In General. Each member of the Tribal Gaming Commission shall hold office for a term of 5 years, except as provided in sub-paragraph 2 below.

(2) Initial Appointments. To stagger the terms of the members of the Gaming Commission and provide a means of ensuring institutional experience, initial appointments to the Commission shall be made for the following terms:

(a) The Chairperson shall be appointed for a term of five years;

(b) The Vice-Chairperson shall be appointed for a term of four years;

(c) One member shall be appointed for three years;

(d) One member shall be appointed for two years; and

(e) One member shall be appointed for one year.

(3) Limitation. No member shall serve for more than 2 terms of 5 years each.

D. Requirements of Members. No member of the Tribal Gaming Commission may-

(1) be actively engaged in or have any direct financial interest in gaming activities;

(2) have any financial interest (other than a general financial interest shared by all members of the Tribe as tribal members) in any business or organization that does business with a gaming operation of the Cheyenne River Sioux Tribe;

(3) have been convicted of any felony or gaming offense;

(4) have any financial interest in, or management responsibility for, any gaming-related contract or any other contract to supply goods or services to a gaming operation of the Cheyenne River Sioux Tribe; or

(5) be less than twenty-five years of age.

E. Additional Factors to Be Considered. As far as possible, the Cheyenne River Sioux Tribe shall seek to ensure that:

(1) at least one member of the Tribal Gaming Commission has a background in financial accounting, record keeping, and finance; and

(2) at least one member of the Tribal Gaming Commission has a background in law enforcement, with experience in the field of investigation or regulatory enforcement.

F. Background Investigations, Eligibility Determinations, and Appointments to the Tribal Gaming Commission. Prior to an appointment of a person to the Tribal Gaming Commission, Tribal Council shall cause a background check to be conducted and shall make an

eligibility determination as set forth below:

(1) The Tribal Police Department shall conduct a background investigation concerning any person under consideration for appointment to the Commission with particular regard to the requirements for members of the Tribal Gaming Commission, set forth above in sub-section D above, and the financial stability, integrity, responsibility, and reputation good character, honesty, and integrity of the nominee.

(2) The Tribal Council shall then review the nominee's prior activities, criminal record, if any, and reputation, habits, and associations to then make a finding regarding eligibility for appointment as a member of the Tribal Gaming Commission.

(3) If the nominee fails to meet the requirements for members of the Tribal Gaming Commission, set forth in sub-section D above, or if the Tribal Council determines that appointment of the nominee poses a threat to the public interest, or effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods or activities in the conduct of gaming, then the nominee shall not be appointed to the Tribal Gaming Commission.

(4) No individual who is not eligible for employment as a primary management official or key employee shall be appointed to the Tribal Gaming Commission.

If the Tribal Council determines that a nominee has met all the requirements for members of the Tribal Gaming Commission, set forth in sub-section D above, and is eligible for appointment as set forth in this sub-section, then the Tribal Council may proceed to appoint the nominee to the Tribal Gaming Commission.

Section 8. Removal of Members; Good Cause; Unexcused Absence -- Vacancies.

A. Removal from Office. The Tribal Council may only remove Tribal Gaming Commission members before expiration of the term of office for good cause shown. The Tribal Gaming Commission may only remove one of its members before expiration of the term of office after he or she has been absent without excuse for 3 or more consecutive meetings.

B. Good Cause for Removal. The following shall be and are cause for removal from the Tribal Gaming Commission:

(1) Abuse of office, including the acceptance of any bribe or inducement to influence the official decision making of the

Tribal Gaming Commission;

- (2) Malfeasance or misfeasance in the performance of official duties;
- (3) Neglect of duty;
- (4) Conviction of a felony or a gaming related offense;
- (5) Failure to comply with federal or tribal gaming laws and regulations, including failure to comply with the requirements for members of the Tribal Gaming Commission, set forth in subsection D above.

C. Procedure for Removal for Cause by Tribal Council. Upon receiving information or evidence that good cause exists to remove a Tribal Gaming Commission member from office before expiration of the term, the Tribal Council shall:

- (1) Schedule a hearing to consider the removal of said member from office and provide said member with no less than 15 days written notice of the hearing and the allegations against him or her.

- (2) Conduct a hearing, which provides said member with a right to hear all evidence that good cause exists for removal, a right to answer that evidence and a right to present evidence in his or her own behalf, including testimony, affidavits, documents and other competent materials.

- (3) Make a determination whether good cause exists for removal after the close of evidence:

- (a) If Tribal Council determines by majority vote that a preponderance of evidence proves that good cause exists to remove said Tribal Gaming Commission member from office, he or she shall be thereby immediately removed from office.

- (b) If the Tribal Council determines that no good cause exists for removal said Tribal Gaming Commission member from office, he or she shall continue in office and the hearing shall be at an end.

D. Procedure for Removal by Tribal Gaming Commission for Unexcused Absences From Gaming Commission Meetings. The Tribal Gaming Commission may, after 3 or more consecutive unexcused absences from regularly scheduled Commission meetings by any member:

- (1) Schedule a hearing and provide said member with no less than 15 days notice of the hearing and the allegations against

him or her.

(2) Conduct a hearing, which provides said member with a right to hear all evidence that shows that he or she was absent without excuse from 3 or more consecutive Tribal Gaming Commission meetings, a right to answer said evidence, and a right to present evidence in his or her own behalf, including excuses for said absences.

(3) Make a determination whether said members was absent without excuse for 3 or more consecutive Tribal Gaming Commission meetings after the close of the evidence:

(a) If the Tribal Gaming Commission determines by majority vote that a preponderance of evidence proves that said member was absent without excuse for 3 or more consecutive Tribal Gaming Commission meetings, he or she is thereby immediately removed from office.

(b) If the Tribal Gaming Commission determines that said member was not absent without excuse for 3 or more consecutive Tribal Gaming Commission meetings, he or she shall continue in office and the hearing shall be at an end.

E. Filling Vacancies. When a Tribal Gaming Commission member vacates or is removed from his or her office before the expiration of the term of office, the Tribal Council shall appoint a qualified individual for the remainder of that term of office in accordance with the procedure and the requirements for regular appointments to the Tribal Gaming Commission.

Section 9. Powers of the Tribal Gaming Commission. The Tribal Gaming Commission shall have the following powers in addition to any powers specified elsewhere in this Ordinance:

A. Regulations. After providing public notice and allowing thirty days for public comment, to promulgate regulations necessary to carry out the Tribal Gaming Commission's responsibilities under this Ordinance.

B. Background Investigations. To cause the Tribal Police to conduct background investigations of management officials and employees of gaming operations in accordance with Section _ below.

C. Licensing Primary Management Officials and All Employees of Gaming Operations. To license primary management officials and employees of gaming operations in accordance with Section _ below.

D. Licensing Gaming Facilities. To license, each facility, place or location on the Indian lands of the Tribe where gaming is to be conducted in accordance with Section _ below.

E. Monitoring Compliance and Accountability. To monitor compliance with this Ordinance and regulations promulgated thereunder, the Class III Compact Between the Tribe and the State of South Dakota, and the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq., to ensure that all gaming is conducted fairly and honestly by both the operator and players, and to ensure that all gaming funds, proceeds, and revenues are properly accounted for, through inspections of records, procedures, and premises, reviews of security and surveillance systems, accounting reviews, audits and investigations.

F. Enforcement. To enforce this Ordinance and regulations promulgated thereunder, the Class III Compact Between the Tribe and the State of South Dakota, and the Indian Gaming Regulatory Act, 25 U.S.C. § 2710 et seq. by conducting administrative review hearings, and after holding hearings, by issuing compliance orders, issuing license restrictions, suspensions, revocations, and terminations, imposing fines, and in the case of a licensee's failure to comply with Gaming Commission orders, to seek injunctive relief in tribal court.

G. Cooperation with Law Enforcement Agencies. To cooperate, confer with and assist, as appropriate, the Tribal Police and Tribal Prosecutor, Federal Bureau of Investigation, National Indian Gaming Commission, and other law enforcement agencies in enforcing gaming laws and prosecuting gaming law violations.

H. Reports. To report to the Tribal Council and the National Indian Gaming Regulatory Committee as necessary.

I. Budget, Expenses and Accounting. To approve a proposed annual budget for submission to the Tribal Council and after Tribal Council approval of its budget, to pay expenses, salaries, stipends and miscellaneous costs as necessary in accordance with its budget; provided, that complete and accurate records shall be maintained of all Tribal Gaming Commission funds, expenses, salaries, stipends and miscellaneous costs.

J. Personnel. To hire, supervise and discipline personnel necessary to assist the Tribal Gaming Commission in the fulfillment of its duties and responsibilities.

K. Necessary and Proper. To exercise such other incidental powers as are necessary and proper to carry out the above powers, including the issuance of subpoenas and other process, discovery requests, show cause orders, and citations for contempt of Tribal Gaming Commission orders or process.

Section 10. Meetings of the Tribal Gaming Commission. The Tribal Gaming Commission shall meet in regular meetings to conduct the ordinary business of the Tribal Gaming Commission. The Tribal Gaming Commission shall meet in special meetings as necessary to

resolve urgent matters or to conclude unfinished business from regular meetings.

A. Regular Meetings. Regular meetings of the Tribal Gaming Commission shall be held once per month and said meetings shall convene on the first Monday of each month, unless the Tribal Gaming Commission sets a different date at its prior Regular meeting.

B. Special Meetings. Special Meetings shall convene at the call of the Chairman or any three Tribal Gaming Commission members upon not less than 3 days written notice to all Tribal Gaming Commission members, specifying the time and place of, and subjects to be considered at, the meeting.

Section 11. Quorum; Voting; Meeting Procedure; and Records.

A. Quorum. The *quorum* of the Tribal Gaming Commission shall be 3 members at any regular or special meeting.

B. Voting. Each member of the Tribal Gaming Commission shall be entitled to one vote; provided, however, the Chairman of the Tribal Gaming Commission shall vote only in the case of a tie. Tribal Gaming Commission regulatory and business matters shall be decided by a majority vote unless otherwise required by tribal law.

C. Procedure. The Tribal Gaming Commission may establish written procedures for the conduct of meetings. Unless and until such written procedures are adopted, the procedures for the conduct of meetings shall be governed by this Ordinance as supplemented by Roberts Rules of Order.

D. Records. The Tribal Gaming Commission shall maintain verbatim records of all Tribal Gaming Commission meetings and hearings.

Section 12. Hearings. The Tribal Gaming Commission shall schedule hearings whenever necessary to ensure compliance with gaming laws, the integrity of tribal gaming operations, or the accountability of gaming operations for funds.

A. Notice. Except as provided below in sub-section B, the Tribal Gaming Commission shall provide 15 days written notice of hearings to the interested parties setting forth the nature of and reason for the hearing, any allegations against those parties, and the time and place for the hearing.

B. Temporary Restraining Orders and Show Cause Orders. When the Tribal Gaming Commission has reason to believe that there has been a significant violation of tribal or federal gaming laws, or the integrity of a gaming operation or its accountability for funds is in jeopardy, the Tribal Gaming Commission may issue show cause orders to require interested parties to appear on 24 hours notice for an emergency hearing to provide and temporary restraining

orders to provide interim relief if necessary. Service of a show cause order shall be by hand delivery to interested parties or their agents.

C. Subpoenas. The Tribal Gaming Commission may issue subpoenas for witnesses, documents, and other tangible evidence as necessary to aid in enforcement of this Ordinance and regulations promulgated thereunder, the Class III Compact between the Tribe and the State, and the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq. An interested party may request in writing that the Tribal Gaming Commission issue subpoenas to compel the attendance of witnesses or production of other evidence favorable to that party.

D. Procedure. The Chairman of the Tribal Gaming Commission shall preside at hearings. An attorney, investigator, or employee of the Tribal Gaming Commission shall begin by presenting information or evidence concerning the Commission's cause for concern. Then the interested parties shall have an opportunity to rebut and offer information or evidence in their own behalf. Thereafter, the Tribal Gaming Commission shall take the matter under advisement and render its decision.

E. Evidence. The Chairman of the Tribal Gaming Commission may admit probative information and evidence without regard to formal Rules of Evidence, provided, that all parties' rights to due process of law are protected. If witnesses are called to testify, testimony may be limited to relevant matters, and opposing parties shall be afforded an opportunity to cross-examine the witnesses.

F. Commission Orders. If official action is necessary after a hearing, the Tribal Gaming Commission shall issue written orders which may restrict, suspend, revoke, or terminate a license, enjoin an activity, impose a fine, or grant such further relief as it finds necessary to fulfill its regulatory responsibility together with the reasons for the action taken.

G. Appeal. Within 30 days after the issuance of an order of the Tribal Gaming Commission, any interested party may appeal the order to the tribal court. The tribal court shall uphold the order of the Tribal Gaming Commission, unless it finds that the Tribal Gaming Commission committed a clear error of law, abused its discretion, or there was no support for the Commission's factual findings.

Section 13. Tribal Gaming Commission Stipend. Each Tribal Gaming Commission member may receive a stipend of \$100.00 per Commission meeting. In addition, Tribal Gaming Commission members may receive reimbursement for travel in excess of twenty miles at the tribal government rate for travel.

Section 14. Conflict of Interest. All Tribal Gaming Commission members shall avoid conflicts of interest generally. No Tribal

Gaming Commission member, attorney, or employee, or immediate family member thereof, shall have a financial interest (other than a generalized interest shared by all members of the Tribe as tribal members) in a gaming operation or a business which contracts with or provides services to a gaming operation.

Section 15. Licenses for Key Employees and Primary Management Officials.

The Tribal Gaming Commission shall ensure that the policies and procedures set out in this section are implemented with respect to key employees, and primary management officials employed at any class II gaming or class III gaming enterprises operated in Indian lands:

A. Definitions. For the purposes of this section, the following definitions apply:

1. Key employee means

(a) A person who performs one or more of the following functions:

- (1) Bingo caller;
- (2) Counting room supervisor;
- (3) Chief of security;
- (4) Custodian of gaming supplies or cash;
- (5) Floor manager;
- (6) Pit boss;
- (7) Dealer;
- (8) Croupier;
- (9) Approver of credit; or
- (10) Custodian of gambling devices including persons with access to cash and accounting records within such devices.

(b) If not otherwise included, any other person whose total cash compensation is in excess of \$50,000.00 per year; or

(c) If not otherwise included, the four most highly compensated persons in the gaming operation;

2. Primary management official means

(a) The person having management responsibility for a management contract;

(b) Any person who has authority:

- (1) To hire and fire employees; or

(2) To set up working policy for the gaming operation;
or

(c) The chief financial officer or other person who has financial management responsibility.

B. Application Forms

Class II and Class III Gaming Key Employee and Primary Management Official Licensees. The following notice shall be placed on the application form for a key employee or primary management official before that form is filled out by an applicant:

In compliance with the Privacy Act of 1974, 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 operation. The information will be used by 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 a tribe or the National Indian Gaming Commission in connection with the 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 the tribal gaming operation being unable to hire you in a primary management official or key employee position.

The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

1. 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 Privacy Act notice; or
- b. Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

2. The following notice shall be placed on the application form for a key employee or a primary official 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. You may also be punished by fine or imprisonment under applicable federal or tribal law. See 18 U.S.C. § 1001.

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

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

C. Background Investigations

1. Information Required. The Tribal Gaming Commission shall require each primary management official and each key employee to furnish all of the following information:

- a. Full name, other names used (oral or written), social security number(s), birth date, 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 subsection;
- d. Current business and residence telephone numbers;
- e. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- f. A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
- g. The name and address of any licensing or regulatory agency with which the person has filed an 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 an ongoing misdemeanor prosecution (excluding minor traffic violations), 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 (excluding minor traffic charges), 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(h) or 1(i) of this subsection, the criminal charge, the name and the address of the court involved and the date and disposition;
- 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 Tribe deems relevant;
- n. Fingerprints; and
- o. For Class III applicants, a written release authorizing the State of South Dakota to conduct a concurrent background investigation.

Upon receipt of the information required of each key employee and primary management official applicant, the Tribal Gaming Commission shall forward a certified copy of each applicant's information to the Tribal Police Department.

2. Investigation. The Tribal Police Department shall conduct a background investigation sufficient to make a determination under subsection D below, and to comply with the terms of the Class III Tribal-State Gaming Compact entered into by the Tribe and the State of South Dakota, where applicable.

In conducting such investigations, the Tribal Police shall perform the following functions:

- a. Fingerprinting. In accord with standard law enforcement procedures, the Tribal Police shall fingerprint any and all applicants for key employee and primary management official positions after verifying the identity of each applicant by a review of at least two forms of picture identification issued by the federal, state or tribal

government.

- b. Verifying Applicant Information. The Tribal Police shall verify the required information provided by applicants by written or oral communication with former employers and business associates, neighbors, personal references, and as appropriate government regulatory agencies and courts.
 - c. Inquiring Into Past Activities and Character. The Tribal Police shall conduct inquiries regarding each applicant's criminal records, past business and personal activities, reputation, and character, through:
 - (i) the review of required information;
 - (ii) standard law enforcement search of National Crime Information Computer (NCIC) data;
 - (iii) personal and telephonic interviews of prior employers for at least ten years, prior business associates, neighbors, personal references; and
 - (iv) as appropriate, review of records held by government agency records and court records.
 - d. Documenting Potential Problem Areas and Disqualifying Information. The Tribal Police shall document potential problem areas and disqualifying information revealed by the background investigation.
 - e. Issuing Background Investigation Reports to Tribal Gaming Commission. In concluding every background investigation the Tribal Police shall issue an investigative report to the Tribal Gaming Commission, including the following:
 - (i) Steps taken in conducting the background investigation;
 - (ii) A List of Results Obtained;
 - (iii) Description of Conclusions Reached; and
 - (iv) The Bases for Those Conclusions.
- D. Eligibility Determination.

Based upon the applicant's submission of required information, a thorough review of the background investigation and investigative reports developed by Tribal Police, the Tribal Gaming Commission shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding regarding the eligibility of a key employee or primary management official

for employment in a gaming operation. If the Tribal Gaming Commission determines that employment of a person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices, methods or activities in the conduct of gaming, a tribal gaming operation shall not employ that person in a key employee or primary management official position.

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 gaming operation authorized by this ordinance, the Tribal Gaming Commission shall forward to the National Indian Gaming Commission a completed application for employment and:

- a. the Tribal Police shall conduct the background investigation referred to in subsection C of this section; and
- b. the Tribal Gaming Commission shall make the determination referred to in subsection D of this section.

2. The Tribal 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. No gaming operation shall employ as a key employee or primary management official a person who does not have a license after 90 days.

F. Report to the National Indian Gaming Commission

1. Pursuant to the procedure set out in subsection E of this section, the Tribal Gaming Commission shall prepare, or cause to be prepared under its oversight, an investigative report on each background investigation, and forward said investigative report to the National Indian Gaming Commission. Said 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 bases for those conclusions.

2. The Tribal 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 Tribal Gaming Commission:

- a. Shall notify the National Indian Gaming Commission; and
- b. May forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.

4. With respect to key employees and primary management officials, the Tribe shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the National Indian Gaming Commission or his or her designee for no less than three (3) years from the date of termination of employment.

G. Granting a Gaming License.

1. If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the Tribe that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the Tribal Gaming Commission has provided an application and investigative report to the National Indian Gaming Commission, the Tribal Gaming Commission may issue a license to such applicant.

2. The Tribal Gaming Commission shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a key employee or primary management official who is the subject of a report. Such a request shall suspend the thirty (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 thirty (30) day period described above, the National Indian Gaming Commission provides the Tribal Gaming Commission with a statement itemizing objections to the issuance of a license to a key employee or primary management official for whom the Tribal Gaming Commission has provided an application and investigative report to the National Indian Gaming Commission, the Tribal Gaming Commission shall reconsider the application, taking into account objections itemized by the National Indian Gaming Commission. The Tribal Gaming Commission shall make the final decision whether to issue a license to such applicant.

H. License Suspension.

1. If, after the issuance of a gaming license, the Tribal 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 Tribal Gaming Commission shall suspend such license and shall notify in writing the licensee of the suspension and proposed revocation.

2. The Tribal Gaming Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license and shall conduct the hearing accordingly.

3. After a revocation hearing, the Tribal Gaming Commission shall decide to revoke or to reinstate a gaming license. The Tribal Gaming Commission shall notify the National Indian Gaming Commission of its decision.

Section 16. Facility Licenses.

The Tribal Gaming Commission shall issue a separate operating license to each place, facility, or location on tribal lands where class II or class III gaming is conducted under this ordinance.

PROHIBITIONS AND PENALTIES

Section 17. Prohibition on Unauthorized Gaming.

Any Class II and Class III Gaming not in accordance with this ordinance or any other tribal gaming law is strictly prohibited.

Section 18. Prohibition on Gaming by Minors.

It is prohibited for any person under the age of twenty-one to participate in any gaming activity, except that persons eighteen years of age or older may play bingo and purchase raffle or lottery tickets.

Section 19. Prohibition on Gaming by Intoxicated Persons.

It is prohibited for any person who is visibly intoxicated to participate in any gaming activity.

Section 20. Prohibition on Cheating.

It is prohibited for any person to conduct or knowingly participate in gaming related activity which results in cheating, misrepresentation, or other unfair practice which detracts from the opportunity of all players to have a fair and equal chance to win, or which otherwise removes the outcome of the game from the realm of chance.

Section 21. Mandatory Compliance with Federal and Tribal Revenue Laws.

It is prohibited for any operator to fail to comply with all applicable federal and tribal revenue laws.

Section 22. No Credit Extended

All gaming shall be conducted on a cash basis. Except as herein provided, no person shall be extended credit for gaming by any gaming facility operated within the territory of the Tribe, and no operation shall permit any person or organization to offer such credit for a fee. This restriction shall not apply to credits won by players who activate play on gaming machines after inserting coins or currency into the game, and shall not restrict the right of the Tribe or any other person to offer check cashing or accept bank card or credit card transactions.

Section 23. Standards for Class III Gaming Devices

No class III gaming device shall be operated within the territory of the Tribe, unless it meets or exceeds requirements for hardware and software established by state law.

Section 24. Penalties for Violations; Forfeiture of Property.

In addition to any criminal penalties and any other civil penalty, the Tribal Gaming Commission may impose a civil fine of up to \$5,000 per day for any violation of this Ordinance, regulations thereunder, or any order of the Commission. Property used in violation of this Ordinance, regulations promulgated thereunder, or any order of the Commission is subject to immediate seizure and forfeiture in accordance with the procedure set forth in the tribal forfeiture ordinance.

Section 25. Dispute Resolution

Any dispute arising between the gaming public and the tribal gaming corporation or the Tribe shall be resolved in the courts of the Cheyenne River Sioux Tribe in accordance with the Constitution and By-Laws of the Tribe and tribal court procedures.

Provided, however, that in any dispute arising from class III gaming where a non-Indian is a defendant the case shall be heard in state court.

Section 26. Repeal

Upon approval of this Ordinance by the Chairman of the National Indian Gaming Commission, any and all prior tribal gaming ordinances and regulations shall be and are immediately repealed.

CERTIFICATION

I, the undersigned, as Secretary of the Cheyenne River Sioux Tribe, certify that the Tribal Council is composed of fifteen (15) members, of whom 11, constituting a quorum, were present at a meeting, duly and regularly called, noticed, convened and held this 15th day of March, 1995, Regular Session; and that the foregoing Ordinance 53B was duly adopted at such meeting by an affirmative vote of 10 for, 0 against, 1 not voting and 4 absent.


Arlene Thompson, Secretary
Cheyenne River Sioux Tribe