



T R I B A L M E M O R A N D U M

TO: SUPERINTENDENT, Cheyenne River Agency

FROM: Arlene Thompson, Tribal Secretary

DATE: 1/04/94

SUBJECT: Ordinance No. 57a: Amendment to Ordinance No. 57, an ordinance providing for the protection of the cultural resources of the Cheyenne River Sioux Tribe.

Transmitted herewith is one (1) original copy and five (5) copies of Ordinance No. 57a, which was duly adopted by the Cheyenne River Sioux Tribal Council, during its regular session held on January 3, 1995.

For your information and/or approval.

cc: Chairman
Treasurer
Council Representatives
Cultural Preservation Officer
Cultural Center Director
Central Records
File/2



ORDINANCE NO. 57a

Amendment to Ordinance No. 57
Cheyenne River Sioux Tribe of South Dakota

An ordinance providing for the protection of the cultural resources of the Cheyenne River Sioux Tribe.

CULTURAL RESOURCES PROTECTION ACT

OF THE

CHEYENNE RIVER SIOUX TRIBE

SECTION 1. Short Title.

This Act may be cited as the "Cultural Resources Protection Act."

SECTION 2. Findings.

The Cheyenne River Sioux Tribal Council finds and declares that:

- (1) The spiritual and physical well-being of the Cheyenne River Sioux Tribe and its members is directly related to the preservation of the historical traditions and cultural heritage of the Lakota people;
- (2) The cultural heritage of the Lakota people should be preserved as a living part of our community life and development in order to give a sense of direction to tribal members;
- (3) The cultural properties of the Lakota people are being lost or substantially altered, at times inadvertently, but with increasing frequency;
- (4) Preservation of our irreplaceable cultural heritage is in the interest of the Lakota people -- the vital cultural, educational, aesthetic, inspirational, economic, energy, and natural benefits of the Reservation must be maintained for future generations of our people;
- (5) In the face of ever increasing economic, energy, natural resource, sanitation, and public health development, the tribal and federal governments efforts to preserve Cheyenne River Sioux cultural resources are

not adequate to ensure our future generations opportunity to fully appreciate and enjoy those resources;

- (6) Increased knowledge of our Lakota cultural resources, the establishment of better means of identifying and administering them, and fostering their preservation will improve the planning of federal, state, tribal and other project and will assist in economic growth and development; and
- (7) Although the major role in cultural resource preservation has been borne by the federal government, and it must continue to play a role, it is nevertheless essential that the Cheyenne River Sioux Tribe increase tribal cultural resource preservation efforts.

SECTION 3. Policy.

It is the policy of the Cheyenne River Sioux Tribe, in cooperation with the federal government, other Indian tribes and private organizations and individuals, to:

- (a) Use appropriate measures to foster conditions under which modern society and our cultural resources can co-exist in productive harmony and fulfill social, spiritual, economic and other requirements of present and future generations;
- (b) Provide leadership in the preservation of Lakota cultural resources;
- (c) Administer Lakota owned, administered or controlled cultural resource in a spirit of good will and stewardship for present and future generations; and
- (d) Mandate the public and private preservation and utilization of usable elements of the Cheyenne River Sioux Nation's stock of pre-historic, historic, and archaeological places, land features, and objects.

SECTION 4. Definitions.

"Cultural Resources" as used in this Act shall mean but is not limited to the following:

- (a) Human skeletal and tissue material.
- (b) Animal skeletal and tissue material.
- (c) Any textile material or animal skin or parts, used for spiritual purposes by pre-historic or historic peoples.

(1) This is to include natural materials, organic and inorganic, from and of the earth.

- (d) Any material remain of past human life and activities and/or plant or animal life and activities which are of cultural, spiritual, historical, archaeological or paleontological interest according to Lakota tradition or as designated by the Cheyenne River Sioux Tribal Council.

(1) This is to include areas of occupation such as; camps, villages, gathering sites and working stations of pre-historic and/or historic peoples.

- (e) Human artifacts more than twenty-five years old.
- (f) Any land features which the Cheyenne River Sioux Tribe acknowledges as "sacred" sites or so desires to designate as "sacred" sites within the exterior boundaries of the Cheyenne River Sioux Reservation.
- (g) Any human artifacts of religious value.

(1) It shall be at the discretion of the Tribe as to what is designated as a "religious" artifact.

- (h) Pre-historic, historic monuments and structures and/or any man made formations in, on, or above ground.

(1) This is to include any natural formations altered to serve as shelter and habitation for man or animal and any man made shelters used for the habitation of man or animal.

SECTION 5. Cultural Preservation Office.

- (a) The Cheyenne River Sioux Tribe Cultural Preservation Office (hereafter the "Office") under the supervision of the Tribal Secretary shall be the Tribe's agency with overall responsibility for the protection, preservation and management planning for the Cheyenne River Sioux Tribe's historical and cultural resources.
- (b) The "Office" shall also be responsible for the Tribe's repatriation efforts and will develop and implement policy for repatriation and act as the Tribe's representative in returning human remains and artifacts.
- (c) The Office shall be directed by the Cheyenne River Sioux Tribes' Cultural Preservation Officer who shall advise the Tribal Council, the Divisions, Departments,

Programs, Agencies, Authorities, Enterprises, and any other instrumentality of the Cheyenne River Sioux Tribe, the federal, state and local governments, private organizations and individuals on matters pertaining to tribal cultural resources.

SECTION 6. Cheyenne River Sioux Museum.

The Cheyenne River Sioux Tribe's Cultural Center shall develop plans and seek funding for a museum in cooperation with the administration of the tribal government. The Cheyenne River Sioux Museum shall be the repository for all cultural resources collected on tribal lands.

SECTION 7. Tribal Work Permits for the surveying and examination of Historical, Archaeological and Paleontological Sites; Gathering of Objects; Regulations.

- (a) Topographical Survey Permits for the conducting of archaeological surveys within the exterior boundaries of the reservation shall be issued by the Cultural Preservation Officer in conjunction with the Bureau of Indian Affairs current permit process for this type of activity.
- (b) Archaeological permits for the examination and excavation of historic and pre-historic sites discovered within the boundaries of the reservation shall be issued by the Cultural Preservation Officer. Provided, that no title to any cultural resource of the Cheyenne River Sioux Tribe shall pass to any permittee. All objects collected under this permit shall be turned over to the Cultural Preservation Officer for review without hinderance at the completion of the study or upon demand during any phase of the study.
 - (1) If, upon review, the Cultural Preservation Officer, in concurrence with the tribal council, determines that such archaeological object(s) may be released to the permittee for further analysis with no adverse consequences on the cultural preservation, then the object(s) may be released to the permittee through mutual agreement.
- (c) Paleontological permits for the examination and excavation of Paleontological sites within the boundaries of the reservation shall be issued by the Cultural Preservation Officer. Provided, that no title shall pass to any permittee. All objects collected under this permit shall be turned over to the Cultural Preservation Officer for review without hinderance at the completion of the study or upon demand during any

phase of the study.

(1) If, upon review, the Cultural Preservation Officer, in concurrence with the tribal council, determines that such paleontological object(s) may be released to the permittee for further analysis with no adverse consequences on the cultural preservation, then the object(s) may be released to the permittee through mutual agreement.

- (d) Gathering of objects of a historic, archaeological, and paleontological nature within the boundaries of the Cheyenne River Sioux Reservation is strictly prohibited unless the collection is done in accordance with the permit process for section 7 (b) and (c).
- (e) The Cultural Preservation Office shall make and publish regulations for the purpose of carrying out its responsibilities and authority under paragraph (a) (b) (c) and (d) of this Act.

SECTION 8. Suspension and Revocation of Permits.

- (a) The Cultural Preservation Officer shall suspend the permit for cause if the permittee violate any tribal law or any condition of the permit. The Cultural Preservation Officer may also suspend a permit upon a determination that continuation of the authority granted by the permit would be detrimental to the Tribe's program for cultural preservation. The permittee may request a meeting with the Cultural Preservation Officer to review the decision which was made to suspend the permit.
- (b) If the permittee does not request a meeting with the Cultural Preservation Officer within thirty days, the Officer shall revoke the permit.
- (c) Decisions of the Cultural Preservation Officer regarding the granting, denial, suspension or revocation of permits may be appealed within thirty days to the Superior or Civil Court by filing a written notice of appeal. The Court shall defer to the factual findings of the Cultural Preservation Office, unless those findings are clearly in error, and the Court shall review other determinations of the Cultural Preservation Office for abuse of discretion.

SECTION 9. Unregulated Examination and Collection Prohibited.

- (a) Any person who shall appropriate, excavate, injure or destroy any cultural resource, including historic and

pre-historic artifacts and pre-historic fossils, within the territory of the Cheyenne River Sioux tribe, without the permission of the Tribal Council or the Cultural Preservation Office, shall be subject to civil fine in an amount not more than \$10,000, and any and all such objects or materials found, collected or removed shall be turned over to the Cultural Preservation Office.

- (b) Any tools, equipment, vehicles or other property that is used in violation of this Act, shall be forfeited to the Tribe in accordance with the procedures set forth in Ordinance No. 52.

SECTION 10. Assessment of Actual and Punitive Damages.

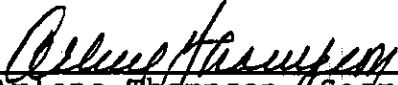
- (a) Individuals violating any provision of this Act shall be required to pay civil damages to compensate the Tribe and individual landholders for their actual damages, and the tribal Civil Court shall have jurisdiction over such actions.
- (b) If the Court finds that any violator knowingly or willfully attempted to deprive the Tribe of cultural resources in violation of this Act, the Court shall assess treble damages in addition to the actual damages and any fine assessed under Section 8 of the Act.

SECTION 11. Severability.

If any provision or sub-provision of this Act, is held to be invalid by the Courts of the Cheyenne River Sioux Tribe or the United States Government, the invalidity shall not effect the balance of the provision or the Act.

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 12, constituting a quorum, were present at the regular January session of the Tribal Council, January 3, 1995; and that the foregoing amendments to Ordinance No. 57 were duly adopted at the January session of the Tribal Council by an affirmative vote of 12 for, 0 not voting, and 3 absent.


Arlene Thompson, Secretary
Cheyenne River Sioux Tribe