



TRIBAL MEMORANDUM

TO: SUPERINTENDENT, Cheyenne River Agency DATE: 01/30/92
FROM: Arlene Thompson, Tribal Secretary *[Signature]*
SUBJECT: ORDINANCE NO. 57 - providing for the protection of the cultural resources
of the Cheyenne River Sioux Tribe.

Tribal Council during its regular session held on January 9, 1992, adopted Ordinance No. 57, an ordinance providing for the protection of the cultural resources of the Cheyenne River Sioux Tribe.

attachment

cc: Chairman
Treasurer
Councilmembers
Cultural Center Director
District Officers (12)
Central Records
File/2

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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

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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 2. 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 resources in a spirit of good will and stewardship for present and future generations; and
- (d) Encourage the public and private preservation and utilization of usable elements of the Cheyenne River Sioux Nation's stock of historic places and objects.

Section 3. Definitions.

"Cultural Resources" as used in this Act means 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 and/or current scientific theories. Cultural resources shall include human artifacts more than twenty-five years old and human artifacts of religious value. The term shall also include pre-historic monuments and any fossils. (Provided, that human

skeletal remains shall not be disturbed for any archaeological or other scientific interest.)

Section 4. Cultural Preservation Office.

The Cheyenne River Sioux Tribe Cultural Preservation Office (hereafter the "Office") under the supervision of the Central Records Department 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. The Office shall be directed by the Cheyenne River Sioux Tribe's 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 5. 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 6. Examination of Archaeological and Paleontological Sites; Gathering of Objects; Regulations.

(a) Tribal permits for the examination of archaeological and paleontological sites, and the gathering of objects of antiquity on Reservation lands may be granted by the Cultural Preservation Office. Provided, that no title to any cultural resource of the Cheyenne River Sioux Tribe shall pass to any permittee and all archaeological and paleontological objects shall be turned over to the Cultural Preservation Office for review. If, upon review, the Cultural Preservation Officer, with the advice and consent of an expert in the field, determines that such archaeological and/or paleontological objects may be released to the permittee with no adverse consequences on the cultural preservation, then the objects may be released to the permittee.

(b) The Cultural Preservation Office may from time to time make and publish regulations for the purpose of carrying out its authority under paragraph (a) of this section.

Section 7. Suspension and Revocation of Permits.

(a) The Cultural Preservation Officer shall suspend the permit for cause if the permittee violates 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 8. Unregulated Examination and Collection Prohibited.

(a) Any person who shall appropriate, excavate, injure or destroy any cultural resource, including historic artifacts and prehistoric 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 9. 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 Sec. 8 of the Act.

Section 10. 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.

