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EvAnn White Feather

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Benita Clark

VICE-CHAIRMAN
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Randel J. "RJ" Lawrence
Ryman LeBeau
Derek Bartlett

DISTRICT 6
Tuffy Thompson
Ronald Rousseau

TRIBAL MEMORANDUM

DATE : 9/9/21

TO : SUPERINTENDENT, Cheyenne River Agency

FROM : Ev Ann White Feather, Tribal Secretary

SUBJECT: Resolution No. 237-2021-CR: That effective as of September 13, 2021, the Cheyenne River Sioux Tribe hereby implements a mandatory face covering requirement for all public indoor places on the Reservation as follows: **MANDATORY FACE COVERINGS IN ALL PUBLIC INDOOR PLACES – A. FACE COVERING.** No person within the Cheyenne River Sioux Reservation may enter into any public indoor place unless the person is wearing a cloth face covering or other face covering designed to reduce the transmission of the COVID-19 virus. A "public indoor place" includes all physical buildings located within the exterior boundaries of the Cheyenne River Sioux Reservation in which individuals may congregate with others who are outside their own households, either to access goods, services, instruction, fellowship, or similar needs that require face-to-face interaction with individuals who are not members of their households. Public indoor places includes, but is not limited to, restaurants, bars, stores, schools, churches, offices, daycares, and other indoor places where people congregate outside their households. **B. COMPLIANCE and COOPERATION WITH CRST COVID-19 MITIGATION and INVESTIGATIONS.** No for-profit business, cooperative, nonprofit organization, place of public accommodation, public venue, or educational institution may operate or allow persons to enter its public indoor place unless the establishment (a) notifies the CRST public health authorities within 24 hours if the establishment is aware that persons who have tested positive for the virus have been inside the establishment; (b) cooperates with CRST public health authorities in the investigation of cases or outbreaks of COVID-19; (c) cooperates with the implementation of infection control measures, including but not limited to social distancing arrangements, isolation and quarantine protocols, and cleaning and disinfecting guidelines set by the CDC; and (d) complies with all CRST laws and directives to reduce the spread of COVID-19 virus on the Reservation and that these COVID-19 health and safety requirements will remain in effect until such time as they are amended or repealed and that this mask mandate for public indoor places is necessary for the

The blue represents the thunderclouds above the world where live the thunder birds who control the four winds. The rainbow is for the Cheyenne River Sioux people who are keepers of the Most Sacred Calf Pipe, a gift from the White Buffalo Calf Maiden. The eagle feathers at the edges of the rim of the world represent the spotted eagle who is the protector of all Lakota. The two pipes fused together are for unity. One pipe is for the Lakota, the other for all the other Indian Nations. The yellow hoops represent the Sacred Hoop, which shall not be broken. The Sacred Calf Pipe Bundle in red represents Wakan Tanka – The Great Mystery. All the colors of the Lakota are visible. The red, yellow, black and white represent the four major races. The blue is for heaven and the green for Mother Earth.

immediate and continued preservation of the public peace, health, safety, and welfare of all residents of the Cheyenne River Sioux Reservation and a person or operator of a public indoor place who knowingly violates this resolution is subject to all criminal and/or civil penalties allowed by law, which may include civil penalties as described below:

Operators of Public Indoor Places:

- First violation - \$250.00 per incident and/or temporary closure until the establishment is deep cleaned and sanitized to CDC Guideline standards.
- Second violation - \$500.00 per incident and/or temporary closure until the establishment is deep cleaned and sanitized to CDC Guideline standards.
- Third violation - \$1,000.00 per incident, temporary closure until the establishment is deep cleaned and sanitized to CDC Guideline standards, and/or loss of CRST licenses, permits, or other privileges of operating a public indoor place within the boundaries of the Cheyenne River Sioux Reservation.

Individuals:

- First violation - \$100.00 per incident.
- Second violation - \$250.00 per incident, regardless of location of first incident.
- Third violation - \$500.00 per incident, regardless of location of prior incident, and/or loss of CRST licenses, permits, or other privileges of doing business with the Cheyenne River Sioux Tribe.

Subsequent violations - \$500.00 per incident.

The Tribe may use all available legal remedies to collect the monetary penalties and enforce the non-monetary penalties set forth in this resolution, including the use of collection agencies, credit reporting bureaus, and other third-party agents and that the Cheyenne River Sioux Tribal Law Enforcement Department and/or the CRST Health Department, or their designees, shall develop and implement regulations, procedures, and forms to enforce this resolution. Violations of this Resolution shall be adjudicated in CRST Tribal Court and that upon its approval by Tribal Council, this resolution supersedes CRST Resolution No.217-2021-CR and contains the provision.

Resolution No. 237-2021-CR
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Transmitted herewith are an original and two (2) copies of Resolution No. 237-2021-CR which was duly adopted by the Cheyenne River Sioux Tribal Council during its Regular Session held on September 9, 2021.

Cc: Chairman
Treasurer
Administrative Officer
Tribal Comptroller
Central Record
Legal Department
Health Committee Chairman
Tribal Health CEO
Law & Order Committee Chairman
Chief of Police
Judicial Department
Prosecutor Office
Public Defender
EPD/Command Center
Committee Secretary
District Officers (6)
File/2

RESOLUTION NO. 237-2021-CR

- WHEREAS, the Cheyenne River Sioux Tribe of South Dakota is an unincorporated Tribe of Indians having accepted the provisions of the Act of June 18, 1934 (48 Stat. 984); and
- WHEREAS, the Tribe in order to establish its tribal organization, to conserve its tribal property, to develop its common resources, and to promote the general welfare of its people, has ordained and established a Constitution and Bylaws; and
- WHEREAS, the Cheyenne River Sioux Tribe is a federally recognized Indian tribe that reserved its original, inherent right to self-government through the Fort Laramie Treaty of 1851, 11 Stat. 749 (Sept. 17, 1851), and the Fort Laramie Treaty of 1868, 15 Stat. 635 (Apr. 29, 1868). The Fort Laramie Treaty of 1868 provides that the territory of the Sioux Nation was "set apart for the absolute and undisturbed use and occupation" of the Sioux Indians as a "permanent home." 1868 Treaty, Arts. II, VI. The exterior boundaries of the Cheyenne River Indian Reservation were established by the Act of March 2, 1889, S 4 (25 Stat. 888); and
- WHEREAS, the Cheyenne River Sioux Tribe has sovereign authority over its members and its territory, *Merrion v. Jicarilla Apache Tribe*, 455 U.S. 130, 140 (1982); *United States v. Mazurie*, 419 U.S. 544, 557 (1975). It has the right to make its own laws and be ruled by them. *Williams v. Lee*, 358 U.S. 217, 220 (1959). It may exercise its traditional and undisputed power to restrain all nonmembers who disturb public order on the reservation and eject them in order to protect the integrity and order of its territory and the welfare of its members. *Duro v. Reina*, 495 U.S. 676, 696-97 (1990). It has civil regulatory jurisdiction over all activities within the exterior boundaries of the Reservation, including activities by non-Indians on fee land, when those activities threaten or have some direct effect on the health or welfare of the Tribe, *Montana v. United States*, 450 U.S. 541, 566 (1981); *United States v. Cooley*, 593 U.S. ____ p. 4 (2021), especially when harmful conduct by nonmembers threatens tribal welfare or security, *Plains Commerce Bank v. Long Family Land & Cattle Co.*, 554 U.S. 316 (2008); and
- WHEREAS, the Cheyenne River Sioux Tribe is organized pursuant to a Constitution and Bylaws adopted under the Indian Reorganization Act of 1934, 48 Stat. 984, with the approval of the Secretary of the United States Department of the Interior. The Tribal Constitution provides that the Tribe has the power to "promulgate ordinances for the purpose of safe-guarding the peace and safety of the Residents of the Cheyenne River Indian Reservation" C.R.S.T. Const., Art. IV, S I(k); and
- WHEREAS, the Cheyenne River Sioux Tribe has the authority and inherent right to exercise its responsibility to its tribal citizens for their formal education by enacting and implementing laws and policies applicable to all schools and educational institutions within the boundaries of the Cheyenne River Sioux Reservation and all educational programs receiving significant funding for the education of Cheyenne River Sioux Tribal youth or adults, Section 102(a), CRST Education Code (Oct. 1, 2019); and

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WHEREAS, in early 2020, a novel and highly contagious coronavirus known as COVID-19 began a worldwide pandemic, overwhelming health care systems and causing hundreds of thousands of hospitalizations and deaths. At the time there was no known treatment to cure or vaccine to prevent COVID-19 illness, so the only public health strategy available was to detect, trace, and mitigate its spread as early as possible. The United States of America declared a national state of emergency on March 13, 2020, due to the COVID-19 outbreak, and the Cheyenne River Sioux Tribe did the same via "Declaration of State of Emergency #2020-01-CR" on March 13, 2020; and

WHEREAS, the COVID-19 virus was - and still is - a critical health threat to Tribal members and other residents of the Cheyenne River Sioux Reservation. Studies have shown that, over the past year, Native Americans nationwide have experienced more than 1 ½ times the rate of COVID-19 infections, more than 3 times the rate of hospitalizations, and more than 2 times the death rate compared to White Americans; and

WHEREAS, in addition to exposure by respiratory droplets and viral particles on frequently touched surfaces, research strongly supports the probability of COVID-19 transmission from aerosols. Airborne particles do not quickly settle onto a surface. They can remain airborne for much longer and travel for distances greater than six feet. Additionally, aerosols are produced by simple activities like talking and breathing, as compared to droplets which are produced primarily by coughing, sneezing and more forceful activities like shouting or singing; and

WHEREAS, because protections against aerosol transmission are not part of the current Tribal protective measures, and because there is concern that the COVID-19 virus may be spreading through interactions among individuals as they patronize public indoor places, the Tribe desires to enact a mandatory face covering resolution so that everyone in public indoor places on our Reservation is protected from contracting this deadly virus; now

THEREFORE BE IT RESOLVED, that effective as of September 13, 2021, the Cheyenne River Sioux Tribe hereby implements a mandatory face covering requirement for all public indoor places on the Reservation as follows:

MANDATORY FACE COVERINGS IN ALL PUBLIC INDOOR PLACES

- A. **FACE COVERING.** No person within the Cheyenne River Sioux Reservation may enter into any public indoor place unless the person is wearing a cloth face covering or other face covering designed to reduce the transmission of the COVID-19 virus. A "public indoor place" includes all physical buildings located within the exterior boundaries of the Cheyenne River Sioux Reservation in which individuals may congregate with others who are outside their own households, either to access goods, services, instruction, fellowship, or similar needs that require face-to-face interaction with individuals who are not members of their households. Public indoor places includes, but is not limited to, restaurants, bars, stores, schools, churches, offices, daycares, and other indoor places where people congregate outside their households.

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B. COMPLIANCE and COOPERATION WITH CRST COVID-19 MITIGATION and INVESTIGATIONS. No for-profit business, cooperative, nonprofit organization, place of public accommodation, public venue, or educational institution may operate or allow persons to enter its public indoor place unless the establishment (a) notifies the CRST public health authorities within 24 hours if the establishment is aware that persons who have tested positive for the virus have been inside the establishment; (b) cooperates with CRST public health authorities in the investigation of cases or outbreaks of COVID-19; (c) cooperates with the implementation of infection control measures, including but not limited to social distancing arrangements, isolation and quarantine protocols, and cleaning and disinfecting guidelines set by the CDC; and (d) complies with all CRST laws and directives to reduce the spread of COVID-19 virus on the Reservation; and

BE IT FURTHER RESOLVED, that these COVID-19 health and safety requirements will remain in effect until such time as they are amended or repealed; and

BE IT FURTHER RESOLVED, that this mask mandate for public indoor places is necessary for the immediate and continued preservation of the public peace, health, safety, and welfare of all residents of the Cheyenne River Sioux Reservation; and

BE IT FURTHER RESOLVED, a person or operator of a public indoor place who knowingly violates this resolution is subject to all criminal and/or civil penalties allowed by law, which may include civil penalties as described below:

Operators of Public Indoor Places:

- First violation - \$250.00 per incident and/or temporary closure until the establishment is deep cleaned and sanitized to CDC Guideline standards.
- Second violation - \$500.00 per incident and/or temporary closure until the establishment is deep cleaned and sanitized to CDC Guideline standards.
- Third violation - \$1,000.00 per incident, temporary closure until the establishment is deep cleaned and sanitized to CDC Guideline standards, and/or loss of CRST licenses, permits, or other privileges of operating a public indoor place within the boundaries of the Cheyenne River Sioux Reservation.

Individuals:

- First violation - \$100.00 per incident.
- Second violation - \$250.00 per incident, regardless of location of first incident.
- Third violation - \$500.00 per incident, regardless of location of prior incident, and/or loss of CRST licenses, permits, or other privileges of doing business with the Cheyenne River Sioux Tribe.
- Subsequent violations - \$500.00 per incident.

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The Tribe may use all available legal remedies to collect the monetary penalties and enforce the non-monetary penalties set forth in this resolution, including the use of collection agencies, credit reporting bureaus, and other third-party agents; and


BE IT FURTHER RESOLVED, that the Cheyenne River Sioux Tribal Law Enforcement Department and/or the CRST Health Department, or their designees, shall develop and implement regulations, procedures, and forms to enforce this resolution. Violations of this Resolution shall be adjudicated in CRST Tribal Court; and

BE IT FURTHER RESOLVED, that upon its approval by Tribal Council, this resolution supersedes CRST Resolution No. 217-2021-CR; and

BE IT FINALLY RESOLVED, that nothing in this resolution diminishes, divests, alters, or otherwise affects any inherent, treaty, statutory or other rights of the Cheyenne River Sioux Tribe over the people, property, and activities described herein. The Cheyenne River Sioux Tribe expressly retains all rights and authority over the people, property, and activities described herein, including but not limited to legislative, regulatory, and adjudicatory powers.

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 9th day of September, 2021, Regular Session; and that the foregoing resolution was duly adopted at such meeting by a roll call vote of 9 yes, 2 no, 0 abstaining and 4 absent.


Ev Ann White Feather, Secretary
Cheyenne River Sioux Tribe