



# **CHEYENNE RIVER SIOUX TRIBE**

## **ANIMAL CONTROL CODE**

**TRIBAL COUNCIL APPROVAL: 7-7-11**

**CHEYENNE RIVER SIOUX TRIBE**  
**Title XII, Animal Control Code**

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**CHEYENNE RIVER SIOUX TRIBE**  
**Title XII, Animal Control Code**

**Sec. 12-1-1 Purpose and Authority**

**Purpose.** The purpose of this Animal Control Code is to provide for the humane control of dogs and cats other than those kept for livestock purposes; to protect the health, safety and welfare of the inhabitants of the Reservation; and to protect the property and livestock of the inhabitants of the Reservation from damage or disease originating with dogs and cats.

**Authority.** The Cheyenne River Sioux Tribal Constitution and By-Laws provide the requisite authority to enact this Code. See Cheyenne River Sioux Tribal Const. and By-Laws, Art. IV(k). Nothing in this Code shall be construed as waiver of sovereign immunity of the Cheyenne River Sioux Tribe.

**Sec. 12-1-2 Definitions**

- (1) "Animal Control Officer(s)" shall mean a Game Warden, a Cheyenne River Sioux Tribal police officer or other person designated by the Tribal Council as such.
- (2) "Livestock" shall mean domestic animals used or raised on a farm or ranch for resale or personal consumption but shall not include dogs or cats.
- (3) "Stray" shall mean any dog, cat or other animal that appears, after reasonable inquiry, not to have an owner.
- (4) "Owner" means any person or persons, firm, association or corporation, or parent of a child owning, keeping sheltering or harboring an animal. The spouse of an owner shall be treated as an agent of the owner for purposes of this statute, except that he or she shall not be liable for civil or criminal penalties imposed on the owner except as otherwise provided by law.
- (5) "At Large" means any licensed or unlicensed animal found off the premises of its owner and not under the physical control of a person, restrained within a vehicle, housed in a veterinary hospital or kennel, or at heel beside a person and obedient to that person's command.
- (6) "At heel" means an animal that is under the voice control and within fifteen feet of the owner or person in custody of said animal.
- (7) "Any hybrid thereof" means wolf, coyote, fox or other canine species intermixed with domestic dogs.
- (8) "Dangerous dogs" means any breed of dog or type of animal with a known propensity or disposition to attack without being provoked, to cause injury to, or otherwise to endanger the safety of humans or other domestic animals.
- (9) "Feral dog" means an undomesticated, wild dog.
- (10) "Pit Bull Terrier" means any Staffordshire Bull Terrier or American Staffordshire Terrier breed of dog, or any mixed breed of dog which contains as an element of its genetic makeup the breed of Staffordshire Bull Terrier or American Staffordshire Bull Terrier, so as to be identifiable as partially of the

breed of Staffordshire Bull Terrier or American Staffordshire Bull Terrier by a qualified veterinarian duly licensed by the Cheyenne River Sioux Tribe or by a duly authorized Animal Control Officer of the Cheyenne River Sioux tribe who is trained (i.e. familiar with American Kennel Club ("A.K.C.") and or United Kennel Club ("U.K.C.") standards for said breeds) to make such identifications.

- (11) "Confined" in this section means securely confined indoors or confined in a secure outdoor enclosure which meets the following requirements:
- i. The enclosure must have secure sides and a secure top, or all sides must be at least eight (8) feet high; and
  - ii. The enclosure must have a bottom permanently attached to the sides or sides embedded into the ground not less than two feet; and
  - iii. The enclosure must be of such material and closed in such a manner that the dog cannot exit the enclosure on its own.

#### Sec. 12-1-2.1 Offices Designated

- (1) The Animal Control Program is designated as the official agent(s) on the Cheyenne River Sioux Reservation for the purpose of enforcement of this Code, issuing animal licenses and collecting fees therefore pursuant to the provisions of this Code. This program shall be housed by the lead animal control agency, the Game, Fish & Parks (GFP) Department of the Cheyenne River Sioux Tribe. Secondary agencies shall be the Cheyenne River Sioux Housing Authority, Cheyenne River Sioux Law Enforcement and other agencies as designated by the GFP.
- (2) The Animal Control Officer(s) shall have the authority to enter into agreements with third parties for collection of license fees, for capture, transport, impoundment and disposition of any animal found within the boundaries of the Cheyenne River Sioux Reservation and for other purposes relating to the enforcement of this Code.
- (3) Any person who purposely interferes with or prevents an Animal Control Officer(s) from performing their official duties may be criminally prosecuted under the Cheyenne River Sioux Tribe Law and Order Code, Sec. 3-4-75, for obstructing a governmental function.

#### Sec. 12-1-2.2 Regulation and Licensing of Dogs and Cats

- (1) Every owner of every dog and cat shall register their dogs or cats on or before January 1<sup>st</sup> of each year, the Animal Control Officer(s) shall provide to the owner a metal tag for each licensed animal. The Animal Control Program will determine the locations for registration.
- (2) Advanced notice shall be given on December 1<sup>st</sup> of each year to allow each owner of unlicensed dogs and cats time for the procurement of license(s) before action is taken.

- (3) When the permanent ownership of a dog/cat is transferred, the new owner shall, within thirty (30) days of the date of ownership, make application for a new license as provided herein, regardless of whether or not the dog/cat was previously licensed under the provision of this section.

#### Sec. 12-1-3 Inoculation of Dogs and Cats

- (1) Any dog or cat within the exterior boundaries of the Reservation who has reached three (3) months of age shall be inoculated against rabies and re-immunized as often as is required to keep the inoculation up to date. All owners of inoculated animals shall be provided a numbered tag for each animal indicating the date of such inoculation.
- (2) An owner shall inform the Animal Control Program, within seven (7) days that their dog/cat has been inoculated against rabies and provide documentation. A record of all vaccinations, dates of inoculation(s), owners' names and address shall be kept by the Animal Control Program.
- (3) The Tribal Council may by resolution or Code adopt general or special regulations requiring inoculation of all dogs and cats for rabies or any other disease, and may require the tagging of such animals in a manner to be prescribed by such regulations.
- (4) The Tribal Council may by resolution or Code adopt general or special regulations requiring sterilization of all dogs and cat, and may require the tagging of such animals in a manner to be prescribed by such regulations.

#### Sec. 12-1-3.1 Display of Tags

- (1) All dogs within the exterior boundaries of the Reservation shall wear a durable collar to which is firmly affixed numbered tags received at the time the animal is vaccinated against rabies and at the time of licensure. The animal shall wear this collar at all times.
- (2) These tags shall be replaced with new tags at the time of subsequent rabies vaccination and license renewal by owner.

#### Sec. 12-1-4 Restraint of Dogs and other animals excluding Cats

- (1) All dogs within any town or city within the exterior boundaries of the Reservation shall be required to be kept on the premises of the home or business of the person who owns or cares for the dog and shall not be allowed outside such premises or allowed to run free except as specifically provided herein.
- (2) The owner or person who cares for a dog on his premises may allow such dog outside of the premises of his home or business within town or city limits only upon the following conditions:
  - a. Dogs must be restrained by a leash no longer than 10 feet in length. Such restraint must be sufficient to effectively prevent such dog from biting, molesting, or otherwise disturbing any animal or person.

- b. Dogs confined within motor vehicles must be kept in a manner which prevents their escape from such vehicles but which does not constitute a cruel restraint of their ability to breathe or move.

**Sec. 12-1-4.1 Lost or Found or Stray Animals**

- (1) Persons finding a stray dog or cat are to notify the Animal Control Program within forty-eight (48) hours. At the discretion of the Animal Control Program, the dog or cat may be kept by the finder and a report left with the Program, to enable the finder an opportunity to return the dog/cat to its rightful owner. A finder who keeps the dog or cat must make a reasonable effort to return it to its rightful owner.
- (2) Persons finding a stray dog or cat are obligated and liable to comply with all the rules and regulations of this Code pertaining to humane care and treatment of dogs or cats while said dog or cat is in their custody.
- (3) After 48 hours the finder shall be considered the owner of the dog/cat for purposes of 12-1-4, 12-1-9, 12-1-5(6) and under all provisions of this Code.

**Sec. 12-1-5 Impoundment and Ticketing**

- (1) Any dog or cat, which is required to be inoculated and/or tagged, found at large on the Reservation and not properly inoculated and/or tagged shall be seized by an Animal Control Officer and impounded for no longer than seventy-two (72) hours, which begins when the dog or cat is impounded.
- (2) Any dog or cat found at large or otherwise in violation of Section 12-1-4 shall be seized by an Animal Control Officer.
- (3) When a dog or cat is seized:
  - a. It may be impounded; or
  - b. When the owner of a seized dog or cat is known, such dog or cat need not be impounded but may be returned to its owner if, in the opinion of the Animal Control Officer, the return would not present a danger to the public or otherwise result in a violation of this chapter; or
  - c. At the discretion of the Animal Control Officer, a citation and/or complaint to appear before the Court with appropriate jurisdiction to answer charges made there under may be served upon the owner.
- (4) The owner of any animal not licensed, inoculated and/or displaying tags as required under 12-1-1, 12-1-3, and 12-1-3.1 shall be issued a written warning. For any subsequent offenses the Animal Control Officer shall issue a citation and/or complaint to appear before the court with appropriate jurisdiction to answer charges made thereunder.
- (5) The Tribal Council may adopt regulations exempting from seizure and impoundment upon conditions designed to protect the safety and welfare of the Tribe and its inhabitants of the Reservation, animals being transported through the Reservation by tourists, common carriers and the like.
- (6) It shall be unlawful for a person, not so authorized, to enter or invade the private premises of another person to capture, entice, or take any dog or cat

out of the enclosure or premises of the owner, or to seize a dog or cat at any place while such dog/cat is accompanied by its owner or keeper.

**Sec. 12-1-5.1 Disposition of Dogs and Cats**

- (1) Any dog or cat with documented ownership, seized under this Code shall be held for a period of seventy-two (72) hours and at the end of such time may be euthanized unless redeemed by its owner or otherwise placed so as not to be in violation of this Code. The dog or cat may be redeemed by its owner or other person on behalf of the owner, by paying the fee of \$5.00 per day or any part of a day, to cover the expense of impoundment and by satisfying other requirements set forth in 12-1-5.2.
- (2) No dog or cat with documented ownership may be euthanized by any method other than those approved by the American Veterinary Medical Association and/or designated agencies involved. No animal carcass shall be disposed of until all vital signs are checked (fixed pupil, cessation of heartbeat and respiration) to assure that death had occurred. Euthanization shall be accomplished only by an Animal Control Officer, licensed veterinarian or designated employee of the U.S. Public Health System. The only exception to this provision is when the killing of a dog or cat is required to prevent death or serious bodily injury to a person or another animal. In all cases, the death of a dog or cat under this Code shall be accomplished by the most humane means possible under the circumstances.

**Sec. 12-1-5.2 Redemption of Impounded Dogs and Cats**

- (1) Upon the impoundment of a dog or cat, a reasonable attempt shall be made to notify and inform the owner of the dog or cat of the requirement for regaining custody of the animal, which may include compliance with any applicable provisions of law, the payment of the appropriate impoundment fee, and any other applicable fees and fines.
- (2) Any dog or cat held or impounded by the Animal Control Program may be redeemed to the owner upon the provision of the following:
  - a. Proof of ownership; and
  - b. Payment of the impoundment and kennel fees (when applicable); and
  - c. Presentation of the license; and
  - d. Showing proof in the form of a current certificate issued and signed by an authorized agent that such dog or cat has been properly vaccinated for rabies or by paying a twenty-five dollar (\$25.00) vaccination fee.

**Sec. 12-1-6 Liability of Owners – Scienter**

Every person owning or keeping a dog shall be liable in damages for injury committed by such dog, and it shall not be necessary in any action brought therefore to allege or prove that such dog was of a vicious or mischievous disposition or that the owner or keeper thereof knew that it was vicious or mischievous;

**Sec. 12-1-6.1 Liability of Dogs Used in Law Enforcement**

Under this section, neither the enforcing agency nor any peace officer employed by the enforcing agency shall be liable in damages for injury committed by a dog when:

- (1) a dog has been trained to assist in law enforcement; and
- (2) an injury occurs while the dog is reasonably and carefully being used in the apprehension, arrest, or location of a suspected offender or in maintaining or controlling the public order.

**Sec. 12-1-7 Dogs Acting Together – Actions – Parties – Judgment**

Where any injury has been caused by two or more dogs acting together and such dogs are owned or kept by different persons, all such persons may be joined or kept by defendants in the same action to recover damages therefore, and the amount found by the court or jury as damages for such injury shall be apportioned among the several defendants found liable and judgment shall be entered jointly and severally against them for the amount so apportioned.

**Sec. 12-1-7.1 Dog Bite Violations**

- (1) No owner of any dog shall do the following:
  - a. Permit the dog to attack or bite any person or domestic animal not on the premises of such owner, possessor or keeper;
  - b. Permit the dog to attack or bite any person or domestic animal upon the premises of the residence of such owner, possessor, or keeper or upon the premises of any business establishment not than open to the public. It is an affirmative defense to this paragraph if such premises are, prior to such attack or bite, posted at each entrance with a prominent and conspicuous sign, in lettering not less than two (2) inches in height, warning all persons of the dog, and the dog is confined as that term is defined hereinabove in the 12-1-8.1(1). It is also an affirmative defense to this paragraph that the attack or bite by the dog was necessary to prevent or apprehend a person engaged in committing an act of violence, robbery, or theft upon the property.
- (2) Violation of either subsection is a Class B offense, unless the circumstances of the bite or attack manifest a reckless and extreme indifference to the value of human life, in which case the violation is a Class A offense.

**Sec. 12-1-8 Dangerous Animals**

- (3) No person shall keep, own or possess any fierce, dangerous or vicious dog or other animal on the Reservation.
- (4) An Animal Control Officer may seize and impound any animal which he reasonably believes to be fierce, dangerous or vicious. Such animal shall not be released from impoundment except upon order from the court(s).



- (5) Any dog or other animal at large, whether inoculated or not, reasonably believed to have bitten any person, shall be seized and impounded for such period of time up to ten (10) days or as a public health office or physician may direct. A public health office or physician having reasonable grounds to believe that a dog or other animal has rabies or some other dangerous disease may order the immediate euthanasia of such animal and such order shall be immediately carried out by the Animal Control Officer or other authorized individual as provided in this Code.
- (6) Any person may kill any dog or other animal that may suddenly assault him or any person in his family or in his company or property, while the person so assaulted is out of the enclosure of the owner or keeper of that dog.
- (7) Any person may kill any dog caught in the act of harassing, assaulting, wounding, killing any livestock or other domestic or wildlife.
- (8) No owner of a dangerous dog or other dangerous animal shall permit such dog or animal to be on the premises of such person without being confined. Violation of this section is a strict liability Class C offense.
- (9) No owner of a dangerous dog or other dangerous animal shall permit such dog or animals to go beyond the premises of said person unless the dangerous dog or other dangerous animal is securely leashed and muzzled or otherwise secured in a manner designed to protect human beings from injury.
- (10) Nothing in this section shall be construed to relieve the owner, possessor, or keeper of a dangerous dog or other dangerous animal from the obligation to comply with any section of this Code or with health and/or environmental statutes and regulations of the Cheyenne River Sioux Tribe within the exterior boundaries of the Reservation.
- (11) Confinement. Any owner of a pit bull terrier(s), within the exterior boundaries of the Cheyenne River Sioux Reservation as defined in the Act of March 2, 1889 (25 Stat. 888) shall:
  - a. Have the dog at all times wear a harness made of nylon or leather of at least 5,000 pounds tensile strength; and
  - b. Post on the premises where the dog is kept at least one sign warning that there is a dangerous animal penned or kept upon the premises; and
  - c. Identify the dog by having it tattooed with a code number and/or Microchip Program; and
  - d. Keep the dog secured at all times by:
    - i. Keeping it confined in a secure enclosure as provided above; and
    - ii. Keeping it muzzled and on a steel chain-link leash, with a tensile strength of not less than 10,000 pounds, not more than six (6) feet in length; and
    - iii. Obtaining liability insurance with coverage of not less than \$50,000; and

- iv. Registering the pit bull terrier with the Animal Control Officer by payment of a \$100.00 per annum fee, together with the delivery to the said officer of two (2) color photographs of the dog.
  - e. Violation of any provisions of this section is a strict liability Class C offense.
- (12) Procedure. Any pit bull terrier or other vicious or dangerous dog or animal running loose or at large within the exterior boundaries of the Cheyenne River Sioux Reservation, as defined in the Act of March 2, 1889, (25 Stat. 888), is subject to police action by the Police Officer, Game Warden, or the designated Animal Control Officer. Such police action may include, but is not limited to, seizing, impounding, and removing the animal from any location within the reservation by the Police Officer, Game Warden, the designated Animal Control Officer, or other official designated and/or authorized by the Tribal Council. In the event the said law enforcement officials determine that the pit bull, vicious or dangerous dog, or dangerous animal constitutes a threat to public safety, the said animal may be destroyed. However, in the event a designated official determines that the animal must be destroyed, where possible said designated official shall notify the owner, if any, of such animal, and impound the animal in order to allow the owner seventy-two (72) hours to pay the fine prescribed by the Tribal Council hereunder and permanently remove the animal from the reservation.

#### Sec. 12-1-9 Enforcement

- (1) Any person who witnesses or has personal knowledge that an act made unlawful by section 12-1-8.1(2), 12-1-8.1(3), 12-1-8.1(5), or 12-1-8.1(6) has been committed may sign a complaint against the alleged violator pursuant to the procedure set forth in Title I, Section II, Rule 5 of this Code.
- (2) Any police officer, special police officer, game warden, or Animal Control Officer employed or authorized by the Cheyenne River Sioux Tribal Council is authorized to issue a summons and complaint to any person when the officer or warden personally observes a violation of the provisions of sections 12-1-8.1(2), 12-1-8.1(3), 12-1-8.1(5), or 12-1-8.1(6) of this Title or when information is received from any person who has personal knowledge that an act made unlawfully by 12-1-8.1(2), 12-1-8.1(3), 12-1-8.1(5), or 12-1-8.1(6) of this Title has occurred.
- (3) Any person violating any of the provisions of sections 12-1-8.1(2), 12-1-8.1(3), 12-1-8.1(5), or 12-1-8.1(6) has committed a public nuisance. Civil action remedies against any public nuisance include injunction, abatement, and the awarding of damages. The remedy by civil action against public nuisance may be maintained by any public body or officer authorized thereto by law or official duty, or by any person whose property is injuriously affected by or whose personal enjoyment is lessened by the nuisance. The pursuit of a civil remedy does not preclude the criminal prosecution of a violation of any section of this Title.

- (4) The Tribal Courts shall be and hereby are authorized to hold *ex parte* hearings to determine whether reasonable grounds exist to induce belief that a dog or other animal may constitute a danger to any other person or persons if not impounded or destroyed. After the hearing, if the Courts find that reasonable grounds exist, the Courts are empowered to enter orders, either *sua sponte* (upon its own motion) or on the motion of the Animals Control Officer or other official designated and/or authorized by the Tribal Council, to have the animal destroyed or to seize and impound or continue the impoundment of the animal until the completion of all legal proceedings held in Tribal and/or Civil Court to determine whether a violation of this Code, necessitating the destruction of the animal, has occurred. If an animal is ordered to be impounded or destroyed pursuant to this subsection or any other section of this Title, the person who owns, possesses, or keeps the animal shall be entitled to a hearing in the Tribal and/or Civil Court within fourteen (14) days or as soon as possible from the entry of such order to show cause to the Courts as to why said order should not be carried out.
- (5) The Tribal Courts, in addition to any other civil and/or criminal penalties provided under this Code, may order the owner of a dangerous dog or other animal to confine the animal immediately and continuously so as to prevent the animal from attacking or biting any person or animal, or may order such other dispositive action, including the destruction of the dog or other animal, as deemed necessary by the Courts. Failure to comply with any such order shall be deemed a violation of this section (and classified as a strict liability Class C offense) or contempt of court, at the Court's discretion.

#### Sec. 12-1-9 Animals Which Disturb Neighborhoods

- (1) No person shall own, keep or harbor any dog or other animal which by loud, continued or frequent howling, yelping, or barking or by noxious or offensive odors shall unreasonably annoy, disturb or endanger the health or welfare of any person or neighborhood. An animal found to be causing a violation of this section may be seized and impounded.
- (2) The owner of a female dog, cat or other non-livestock animal in heat or when in season, shall cause such animal to be penned or enclosed in such a manner as to preclude other animals from attacking such female animal or being attracted to it.

#### Sec. 12-1-10 Criminal Penalties for Violations of the Animal Control Code

- (1) Any person violating any of the following described provisions of this Code shall be guilty of a Class C offense and upon conviction thereof shall not be imprisoned but may be fined not less than \$25.00 nor more than \$75.00 for each conviction plus court costs:
  - a. Failure to confine or otherwise restrain an animal as required by Sec. 12-1-4.

- b. Keeping, owning or possessing a fierce, dangerous, or vicious animal as prohibited by Sec. 12-1-8.
  - c. Violating the provisions of Sec. 12-1-9 regarding animals which disturb the neighborhood.
- (2) Any person who cruelly injures, destroys, or poisons a dog, cat, or any other animal, except under the conditions authorized in this Code, shall be guilty of a Class C offense.
- (3) It shall be a Class C offense for any person to abandon any live animal on the Reservation or to dispose of the carcass of any dead animal except in a place specifically set aside for such purposes by the Tribe and/or U.S. Public Health Service and/or any political subdivision of the State of South Dakota.

**Sec. 12-1-11 Civil Penalties for Violations of the Animal Control Code**

- (1) Any resident living within the exterior boundaries of the Reservation who fails to comply with this Ordinance shall be guilty of a civil offense, specifically:
  - a. Failing to tag and/or inoculate an animal as required by Sec. 12-1-2.2, Sec. 12-1-3 and Sec. 12-1-3.1; Failure to confine or otherwise restrain an animal as required by Sec. 12-1-4.
  - b. Keeping, owning or possessing a fierce, dangerous, or vicious animal as prohibited by Sec. 12-1-8.
  - c. Violating the provisions of Sec. 12-1-9 regarding animals which disturb the neighborhood.
- (2) If, by a preponderance of the evidence, the resident is found guilty of such charge, a fine shall be issued as follows:
  - a. First Offense, an order to register or tag, confine, inoculate or sterilize the animal in question;
  - b. Second offense, a fine in the amount of \$25.00 shall be issued
  - c. Third offense, an Order to remove the dogs from the Reservation and a fine in the amount of \$75.00.

**Sec. 12-1-12 Eliminations of Unwanted and Stray Animals**

It shall be the duty of the Animal Control Program to seize, impound and effect the disposition of unwanted and stray animals on an ongoing basis. If it becomes apparent to the Animal Control Officer, Public Safety, Housing Authority, Bureau of Indian Affairs, Indian Health Service, School Authorities, or other parties that, despite the fulfillment of this duty, there are serious safety and health concerns due to unwanted and stray animal populations, an unwanted and stray animal sweep or clinic shall be authorized. The public will be given ample warning and time (one week notice) to confine their animals so as not to have them seized. The unwanted and stray animal sweeps or clinics will be held as is required to ensure the safety, health and well being of persons residing on the Cheyenne River Sioux Reservation. All preceding requirements and descriptions of this Animal Control Code will be enforceable in the application of this Section. A disposal fee may be assessed at a later date.

**Sec. 12-1-13 Repealer**

The following sections of the Cheyenne River Sioux Tribe Law and Order Code are hereby repealed, as of the effective date of this Code, to the extent that they are inconsistent with or in conflict with, or are contrary to the spirit and/or purpose of this Animal Control Code: 1) CRST Code No. 12, and 2) CRST Ordinance No. 60.

**Sec. 12-1-14 Effective Date**

This code shall take effect on July 7, 2011 and shall govern all cases pending in Tribal and Circuit Court on that date unless the Court finds that manifest injustice would result from immediate application of this Code to a pending case. No such exceptions shall apply to cases initiated on or after July 7, 2011.

**Sec. 12-1-15 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 10, constituting a quorum, were present at a meeting duly and regularly called, noticed, convened and held this 7th day of July, 2011, Regular Session; and that the foregoing resolution was duly adopted at such meeting by a roll call vote of 10 yes, 0 no, 0 abstaining, 1 vacant and 4 absent.

  
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EvAnn White Feather, Tribal Secretary  
Cheyenne River Sioux Tribe