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TRIBAL MEMORANDUM

DATE : 1/25/17

TO : SUPERINTENDENT, Cheyenne River Agency

FROM : Ev Ann White Feather, Tribal Secretary

Ev Ann White Feather

SUBJECT: CRST Landlord Tenant Code "Revised": To clarify the law governing the occupation of dwelling units, and to protect the rights of landlords and tenants; to provide clear eviction procedures and to require landlords to comply with those procedures when evicting tenants; to encourage landlords and tenants to maintain and improve dwelling units on the Reservation in order to improve the quality of housing as a tribal resource; to establish laws and procedures which are necessary to obtain federal or state funding for tribal housing programs and to preserve the peace, harmony, safety, health and general welfare of the people of the Tribe and those permitted to enter or reside on the Reservation.

Transmitted herewith is one (1) original copy of the approved CRST Landlord Tenant Code "Revised" which was duly adopted by the Cheyenne River Sioux Tribal Council during its Special Session held on January 19, 2017.

Cc: Chairman
Treasurer
Administrative Officer
Tribal Comptroller
Central Records
Housing Committee Chairman
Human Services Committee Chairman
Law & Order Committee Chairman
HIP Office
Oti Kaga, Inc.

Legal Department
CR Housing Authority
Chief of Police
Judicial Department
Prosecutor Office
Public Defender Office
CRST Property & Supply
Committee Secretary
District Officers (6)
File/2

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.

CHEYENNE RIVER SIOUX TRIBE
LANDLORD-TENANT CODE

Chapter 1. General Provisions.

§1-1. Applicability.

This Tribal Landlord-Tenant Code (hereinafter referred to as Code) shall apply to all agreements for the rental of housing, dwelling units, or accommodations intended for human occupation and residence. The Code shall not apply to agreements regarding:

- (a) Residence at an institution, public or private, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar service; or
- (b) Occupancy in a hotel, motel, or other commercial lodging.

§1-2. Jurisdiction.

The jurisdiction of the Tribal Court of the Cheyenne River Indian Reservation is extended over:

- (a) All housing, dwelling units, or accommodations intended for human occupation and residence which may lie upon lands owned by, held in trust for, leased or used by the Tribe, its members, or any agency or entity of the Tribe; and
- (b) All persons or entities' within the jurisdiction of the Tribe who sell, rent, lease, or allow persons to occupy housing, dwelling units, or accommodations for the purpose of human dwelling, occupation, or residence, and all persons who rent, lease, or occupy such structures.

§1-3. Purposes and Interpretation.

This Code shall be strictly interpreted and construed to fulfill the following purposes:

- (a) To clarify the law governing the occupation of dwelling units, and to protect the rights of landlords and tenants;
- (b) To provide clear eviction procedures and to require landlords to comply with those procedures when evicting tenants;
- (c) To encourage landlords and tenants to maintain and improve dwelling units on the Reservation in order to improve the quality of housing as a tribal resource;
- (d) To establish laws and procedures which are necessary to obtain federal or state funding for tribal housing programs; and

(e) To preserve the peace, harmony, safety, health and general welfare of the people of the Tribe and those permitted to enter or reside on the Reservation.

§1-4. Definitions.

Unless the context plainly requires otherwise, the following terms shall mean:

(a) "Building and housing codes." Any law, ordinance, or governmental regulation of the Tribe or an agency of the United States which deals with fitness for habitation, health conditions, or the safety, construction, maintenance, operation, occupancy, use, or appearance of any dwelling unit.

(b) "Drug-related criminal activity." The illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance as defined in Section 102 of the Controlled Substance Act (21 U.S.C. § 802);

(c) "Dwelling unit." A house or building or portion thereof which is rented or leased as a home or residence by any person, not including public transient accommodations, such as hotel rooms;

(d) "Guest." Any person, other than the tenant, in or around a dwelling unit with the permission and consent of the tenant;

(e) "Housing Authority." The Cheyenne River Housing Authority, established by Tribal Ordinance 28 for the purpose of constructing and maintaining dwelling units for public use within the territorial jurisdiction of the Tribe;

(f) "Indian." Any person recognized as being an Indian or an Alaska Native by any Tribe, or by the government of the United States;

(g) "Landlord." Any person, entity, or government agency which is the owner, lessor, or sublessor of a dwelling unit intended for the use of tenants;

(h) "Nuisance." The maintenance or allowance on real property of a condition which one has the ability to control and which unreasonably threatens the health or safety of the public or neighboring land users or unreasonably and substantially interferes with the ability of neighboring property users to enjoy the reasonable use and occupancy of their property;

(i) "Owner." Any person or entity jointly or individually having legal title to all or part of land or a dwelling unit, including the legal right to own, manage, use, or control a dwelling unit under a mortgage, long-term lease, or any other security arrangement;

(j) "Person." Any individual, organization, corporation, partnership, or other entity, and, where required by the language of this Code, a public agency;

(k) "Premises." A dwelling unit and the structure of which it is a part, and all facilities and areas connected with it, including grounds, common areas, and facilities intended for the use of tenants or the use of which is promised for tenants;

(l) "Rent." All periodic payments to be made to a landlord under a rental agreement;

(m) "Rental Agreement." Any agreement, written or oral, as well as valid rules and regulations regarding the terms and conditions concerning the use or occupancy of a dwelling unit or premises, including lease-purchase agreements;

(n) "Reservation." The Cheyenne River Indian Reservation;

(o) "Serious Nuisance." Inflicting bodily harm upon another tenant, the landlord, or the landlord's agent(s) or threatening to inflict such harm with the present ability to effect the harm and under circumstances which would lead a reasonable person to believe that such threat will be carried out; substantial and willful destruction of part of the dwelling unit or premises; conduct-which presents an immediate and serious danger to the safety of other tenants, the landlord, or the landlord's agent(s); using the premises for any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants; or any drug-related criminal activity on the premises, engaged in by a tenant, his guest, or any other person under the tenant's control;

(p) "Tenant." The lessee(s), sublessee(s), or person(s) entitled under a rental agreement to occupy a dwelling unit to the exclusion of others. The term "tenant" is synonymous and interchangeable with the term "tenant household" and includes all lessees, sublessees, or persons entitled under a rental agreement to occupy a dwelling unit to the exclusion of others;

(q) "Tribal Court." The Tribal Court of the Cheyenne River Indian Reservation; and

(r) "Tribe." The Cheyenne River Sioux Tribe.

Chapter 2. Rights and Responsibilities of Landlords and Tenants

§2-1. Rental Agreements.

(a) Effect of Rental Agreements. The provisions of this Code, as well as the applicable laws identified in §1-4, establish the minimum rights and responsibilities of landlords and tenants. Unless inconsistent therewith, rental agreements may supplement these minimum rights and responsibilities.

(b) Terms Prohibited in Rental Agreements. No rental agreement shall provide that the tenant agrees: (1) to waive or forfeit his rights or remedies under this Code or any other applicable laws as identified in §1-4; (2) to exculpate or limit the liability of the landlord or to indemnify the landlord for that liability or the costs connected therewith; (3) to permit the landlord to dispossess him without resort to court order; or (4) to pay a late charge prior to the

expiration of the grace period set forth in §3-1(a)(2). A provision prohibited by this subsection shall be unenforceable.

(c) Term of Tenancy. In the absence of a definite term in the rental agreement, the tenancy shall be month-to-month.

(d) Payment of Rent. In the absence of definite terms in the rental agreement, rent is payable at the dwelling unit and the amount of rent shall be the fair market value of the rental unit.

§2-2. Rules and Regulations.

(a) The landlord may promulgate reasonable rules and regulations regarding the use and occupancy of the dwelling unit.

(b) Such rules and regulations are enforceable against the tenant only if: (1) their purpose is to promote the convenience, safety or welfare of the tenants in the premises, preserve the landlord's property from abuse use or make a fair distribution of services and facilities held out for all the tenants generally; (2) the rules and regulations are reasonably related to the purpose for which they are adopted; (3) the rules and regulations apply to all tenants in the premises in a fair manner; (4) the rules and regulations are sufficiently explicit in their prohibition, direction or limitation of the tenant's conduct to fairly inform him of what he shall or shall not do to comply; and (5) the tenant has notice of the rules and regulations at the time he enters into the rental agreement or when they are adopted.

(c) If a rule or regulation that would result in a substantial modification of the terms of the rental agreement is adopted after the tenant enters into the rental agreement, such rule or regulation is not valid unless the tenant consents to such rule or regulation in writing.

§2-3. Landlord Responsibilities.

Each landlord subject to the provisions of this Code shall:

(a) Maintain the dwelling unit in a decent, safe, and sanitary condition;

(b) Comply with applicable building and housing codes;

(c) Make all necessary repairs to put and maintain the premises in a fit and habitable condition, except where the premises are intentionally rendered unfit or uninhabitable by the tenant or his guest, in which case such duty shall be the responsibility of the tenant;

(d) Keep common areas clean, safe, and secure;

(e) Maintain in good condition and safe working order all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, except where such

things are, in the rental agreement, expressly made the responsibility of the tenant or where such things are generated by an installation within the exclusive control of the tenant;

(f) Provide and maintain proper and appropriate receptacles and facilities for the disposal of ashes, garbage, rubbish, and other waste;

(g) Provide running water, hot water, and heat in accordance with applicable building and housing codes, except to the extent the tenant is required to provide such for himself;

(h) Guarantee the right of quiet enjoyment of the dwelling unit to the tenant and insure that the conduct of other tenants, their guests, and other persons on the premises does not cause a nuisance, serious nuisance, endangerment of public health or safety, breach of peace, or interference with the quiet enjoyment of the tenant;

(i) Give sole possession of the dwelling unit to the tenant in accordance with the rental agreement and refrain from: (1) entering the unit, except as authorized in §2-4(h); (2) making repeated demands for entry otherwise lawful under §2-4(h) but which have the effect of unreasonably harassing the tenant; (3) sexually harassing or physically assaulting the tenant in or around his dwelling unit; or (4) locking the tenant out of his dwelling unit without the tenant's consent; and

(j) Disclose, in writing, the name, address, and telephone number of the person responsible for receiving rent, notices and demands under this Code, the person authorized to manage the dwelling unit, the owner of the premises or his agent, and the person responsible for making repairs, where they are required.

§2-4. Tenant Responsibilities.

Each tenant subject to the provisions of this Code shall:

(a) Pay rent without demand or notice at the time and place agreed upon by the parties;

(b) Immediately notify the landlord of any defects in the premises hazardous to life, health, or safety;

(c) Keep the dwelling unit reasonably clean and dispose of all ashes, garbage, rubbish, junk, and abandoned vehicles in a proper, sanitary, and safe manner;

(d) Use all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, which are part of the dwelling unit or premises, and the property of the landlord, in a proper, safe, sanitary, and reasonable manner;

(e) Refrain from destroying, defacing, damaging, contaminating with any dangerous or illegal substance, or removing any part of the dwelling unit, premises, or common areas, and to require guests to act in like manner;

(f) Pay reasonable charges for the repair of damages, other than normal wear and tear, to the dwelling unit, premises, or common areas caused by the tenant or his guests, or to repair such damages as required under the rental agreement, within 30 calendar days of such damage;

(g) Conduct himself, and require his guests to conduct themselves, in a manner which does not disturb the quiet enjoyment of others or cause a breach of the peace;

(h) Not give up the dwelling unit to others, assign a lease arrangement, or sublease the dwelling unit without the written or oral permission of the landlord;

(i) Use the dwelling unit only for residential purposes as agreed, and not to use the unit or permit its use for any other purpose, including illegal conduct or any other activity which may harm the physical or social environment of the premises or the area around it;

(j) Abide by all rules and regulations promulgated by the landlord in accordance with §2-2; and

(k) Provide the landlord access to the dwelling unit to perform maintenance and repairs, inspect the premises, supply necessary or agreed services, or show the dwelling unit to prospective buyers or tenants, provided that such access shall be at reasonable times when the tenant is present, and upon reasonable written or oral notice from the landlord, except in emergency situations where the health, safety or welfare of the tenant or the tenant's neighbors is in immediate danger or where the tenant consents. No tenant who unreasonably denies access to a landlord for these purposes may pursue an action or grievance on the grounds that any services or repairs were not provided.

§2-5. Tenant Remedies.

(a) Conditions. Where a landlord has not complied with his responsibilities as set forth in §§2-3(a)-(g) of this Code and where the tenant has given notice to the landlord and the landlord has failed, within a reasonable period of time, to cure his noncompliance, the tenant may:

(1) Make necessary repairs and deduct the actual and reasonable cost of such repairs from his rent;

(2) Institute an action in the Tribal Court seeking: (i) an order compelling the landlord to comply with his responsibilities as set forth in §§2-3(e)-(g); (ii) an award of money damages, which may include a retroactive abatement of rent; and/or (iii) such other relief in law or equity as the court may deem proper; and/or

(3) Terminate the rental agreement in cases where the landlord's noncompliance renders the dwelling unit uninhabitable.

(b) Harassment and Quiet Enjoyment. Where a landlord violates his responsibilities as set forth in §2-3(h) and §2-3(i) of this Code, the tenant may:

(1) Institute an action in the Tribal Court seeking: (i) an order compelling the landlord to comply with his responsibilities as set forth in §2-3(h) and §2-3(g); (ii) an award of money damages; and/or (iii) such other relief in law or equity as the court may deem proper. If the court finds for the tenant, the tenant shall recover damages not less than an amount equal to one month's rent and reasonable attorney's fees, provided that the tenant's complaint included a prayer for money damages; and/or

(2) Terminate the rental agreement.

(3) However, if the court finds for the landlord in an action instituted by a tenant under this section, the tenant shall not recover money damages and the landlord may be awarded reasonable attorney's fees.

(c) Identification of Landlord. Where a landlord fails to identify himself to the tenant in accordance with §2- 3(j) of this Code, the tenant is under no obligation to pay rent and may terminate any existing rental agreement.

§2-6. Landlord Remedies.

Where a tenant has committed serious or repeated violations of his responsibilities as set forth in §2-4 of this Code, the landlord may institute an action in the Tribal Court seeking an order compelling the tenant to comply with his responsibilities as set forth in §2-4, an award of money damages, and/or such other relief in law or equity as the court may deem just and proper.

§2-7. Abandoned Dwelling Units.

Where a tenant has vacated a dwelling unit without notice to the landlord and does not intend to return; which is evidenced by the removal by the tenant or his agent of all or Substantially all of his possessions and personal effects from the premises and either: (1) nonpayment of rent for one or more months; (2) terminated water or electrical utility service for a period of one or more months; or (3) an express written statement signed by the tenant stating that he does not intend to occupy the premises after a specified date, the landlord may regain possession of the dwelling unit without complying with the eviction procedures set forth in Chapter 3, as long as the landlord complies with the procedures set forth in subsections (a) and (b), below;

(a) The landlord shall send notice to the tenant at the tenant's last-known mailing address by certified mail, return receipt requested, stating in clear and simple language:

(1) That the landlord has reason to believe that the occupant has abandoned the dwelling unit;

(2) That the landlord intends to reenter and take possession of the dwelling unit, remove any possessions and personal effects remaining in the unit, and rent the unit unless the tenant contacts him within 10 days of receipt of the notice;

(3) That if the tenant does not reclaim any possessions and personal effects removed from the dwelling within 30 days after receipt of the notice, such possessions and effects will be disposed of in accordance with §3-9(b); and

(4) A telephone number and a mailing address at which the landlord can be contacted.

(b) If the notice is returned as undeliverable, or if the tenant fails to contact the landlord within 10 days of the receipt of the notice, the landlord may regain possession of the dwelling unit, at which time any rental agreement in effect shall terminate. Any and all of the tenant's possessions remaining in the unit shall be disposed of in accordance with §3-9(b) below.

Chapter 3. Eviction Procedures.

§3-1. Grounds for Eviction.

A tenant may be evicted from a dwelling unit when:

(a) The rental agreement terminates for any of the following reasons:

(1) By reason of an expressed stipulation in the rental agreement;

(2) Nonpayment of rent within nine (9) calendar days of the agreed date of payment or, in month-to-month tenancies where there is no agreed date of payment, by the tenth day of the month;

(3) Serious or repeated violations of the rental agreement, any reasonable rules or regulations adopted in accordance with §2-2, this Code, or any applicable building or housing codes;

(4) Nuisance; or

(5) Serious nuisance.

(b) The dwelling unit, or any part thereof, is occupied by one who never had a right or privilege to occupy such premises; or

(c) The tenant originally had the right or privilege to occupy the dwelling unit other than under a rental agreement or lease but such right or privilege has terminated.

§3-2. Notice to Quit Possession.

(a) When a landlord desires to obtain possession of a dwelling unit, and when there exists one or more legally cognizable reasons to evict the tenant or tenants occupying the unit as set forth in §3-1, the landlord shall give notice to the adult tenants to quit possession of such dwelling unit at least five (5) days before the date specified in the notice for the tenant or tenants to quit possession.

(b) The notice shall be addressed to each adult tenant of the dwelling unit and shall state the legally cognizable ground(s) for eviction and the date by which the tenant is required to quit possession of the dwelling unit.

(c) The notice shall be in writing substantially in the following form: "I (or we) hereby give you notice that you are to quit possession or occupancy of the dwelling unit now occupied by you at (here insert the address or other reasonable description of the location of the dwelling unit), on or before the (here insert the date) for the following reason (here insert the legally cognizable ground(s) for eviction using the statutory language or words of similar import). Signed, (here insert the signature, name and address of the landlord, as well as the date and place of signing)."

(d) One copy of the notice shall be served upon the adult tenants of the dwelling Unit. Service may be made on any day of the week. The landlord may effect service of the notice to quit by:

(i) Personal service of a copy of the notice to quit to the tenant, to the tenant's place of abode provided that the place of delivery is exclusively within the control of the tenant, or to a person of suitable age and discretion at the tenant's place of abode;

(ii) Mailing the notice to the tenant at the tenant's last-known mailing address by certified mail, return receipt requested, provided that if such notice is returned as undeliverable, service shall be effected in accordance with subsection §(1)(a), above;

(iii) Causing an indifferent person, who is not a party and who is not less than eighteen (18) years of age, to deliver a copy of the notice to quit to the tenant personally, to the tenant's place of abode provided that the place of delivery is exclusively within the control of the tenant, or to a person of suitable age and discretion at the tenant's place of abode; or

(iv) Mailing the notice to the tenant at the tenant's last-known mailing address by certified mail, return receipt requested, provided that if such notice is returned as undeliverable, service shall be effected in accordance with subsection (2)(1), above.

(e) The landlord shall keep a copy of the notice and proof of service by affidavit or other manner recognized by law.

3-3. Summons and Complaint.

(a) If, after the date set forth in the notice to quit for the tenant to quit possession of the dwelling unit, the tenant has not quit possession, the landlord may file a complaint in the Tribal Court for eviction and such other relief as the Court may deem just and proper. The complaint shall include:

(1) The names of the adult tenants against whom the suit is brought;

(2) A description of the rental agreement, if any;

(3) The address or reasonable description of the location of the premises;

(4) The grounds for eviction;

(5) A statement that any required termination notices have been served in accordance with this Code or other applicable law, a copy of such notices, and proof of service of such notices by affidavit or other manner recognized by law; and

(6) A statement of the relief demanded, including any claim(s) for possession of the dwelling unit, damages, or other relief as provided for in this Code.

(b) Upon filing of the complaint, the clerk shall forthwith issue a summons within the timeframes described below and deliver the summons to the landlord or the landlord's attorney, who shall be responsible for prompt service of the summons and a copy of the complaint. Upon request of the landlord or the landlord's attorney, separate or additional summons shall issue against any defendants.

(1) For complaints asserting that the grounds for eviction is serious nuisance, drug-related criminal activity, danger to the health and safety of the tenant (including methamphetamine contamination), or imminent destruction of property, a summons shall be issued within twenty-four (24) hours of filing of the complaint.

(2) For all other complaints for eviction, the summons shall be issued within five (5) days of filing of the complaint.

(c) The summons shall be signed by the clerk, be under the seal of the court, contain the name of the court and the names of the parties, be directed to the tenant, state the name and address of the landlord's attorney, if any, otherwise the landlord's address, and the timeframe within which the tenant is required to answer the complaint (as further described below), and shall notify the tenant that in case of the tenant's failure to do so, judgment by default may be rendered against the tenant for the relief demanded in the complaint.

(1) For complaints for eviction asserting serious nuisance, drug-related criminal activity, danger to the health and safety of the tenant (including methamphetamine contamination), or imminent destruction of property, the time allowed for an answer or other responsive pleading shall be seven (7) days.

(2) For all other complaints for eviction, the time allowed for an answer or other responsive pleading shall be twenty (20) days.

§3-4. Service and Return of Summons and Complaint.

(a) Service may be effected by the Court or the landlord. Service of the summons and complaint shall be done as expeditiously as possible.

(b) The court or landlord shall cause the summons and complaint to be served together upon each adult tenant against whom the suit is brought by:

(1) Delivering a copy of the summons and complaint to the tenant personally;

(2) Delivering a copy of the summons and complaint to the tenant's place of abode, provided that the place of delivery is exclusively within the control of the tenant;

(3) Delivering a copy of the summons and complaint to a person of suitable age and discretion at the tenant's place of abode; or

(4) Delivering a copy of the summons and complaint to an agent authorized by appointment or by law to receive such process for the tenant.

(b) The summons and complaint shall be served by any indifferent person who is not a party and who is not less than eighteen (18) years of age. Service may be made on any day of the week. The plaintiff shall furnish the person making service with such copies as are necessary.

(c) The person serving the summons and complaint shall make proof of service thereof by affidavit or other manner recognized by law to the court promptly and in any event within the time during which the person served must respond to the complaint.

§3-5. Defenses, Objections, and Counterclaims.

(a) To defend against an eviction action, a tenant shall serve an answer or other pleading or motion, together with any cross-claims, counterclaims, or affirmative defenses, in accordance with Rule 12 of the Rules of Civil Procedure of the Tribe, within the time periods set forth above in §3-3.

(b) A tenant may raise as an affirmative defense to an eviction action any of the following defenses:

(1) Any applicable defense available under §2-5 of this Code;

(2) Any applicable defense available under general principles of contract law, including but not limited to estoppel, laches, fraud, misrepresentation, and breach;

(3) In the case of an eviction based on nonpayment of rent, a defense that the landlord's noncompliance with if §§2-3(a)-2-3(g) created a condition in the dwelling unit which materially endangered the health and safety of the tenant during the period for which nonpayment is alleged, provided that the tenant gave notice to the landlord and the landlord failed, within a reasonable period of time, to cure his noncompliance; and/or

(4) Any other material defense, which demonstrates that the eviction is unjust.

§3-6. Default Judgment for Failure to Plead.

In case of the tenant's failure to plead as required by §3-5 of this Code, the court may, upon motion of the landlord, enter default judgment against the tenant for the relief demanded in the complaint, provided that the landlord's motion is supported by proof, by affidavit or other manner recognized by law, of timely service of the summons and complaint upon each adult tenant against whom the suit is brought.

§3-7. Hearing or Trial.

(a) If the tenant timely serves an answer or other pleading or motion, the court shall set a hearing or trial date as follows:

(1) For eviction complaints asserting serious nuisance, drug-related criminal activity, danger to the health and safety of the tenant (including methamphetamine contamination), or imminent destruction of property, no less than five (5) days following the date on which the tenant filed such answer or other pleading or motion, or no less than five (5) days following the last date allowed for such answer or other pleading when no answer or other pleading is filed, provided that if the tenant serves a pleading or cross-claim or counterclaim, the court shall set the hearing or trial date no less than five (5) days following the date on which the landlord serves an answer or reply to such cross-claim or counterclaim.

(2) For all other eviction complaints, no less than ten (10) days following the date on which the tenant filed such answer or other pleading or motion, or no less than ten (10) days following the last date allowed for such answer or other pleading when no answer or other pleading is filed, provided that if the tenant serves a pleading stating a cross-claim or counterclaim, the court shall set the hearing or trial date no less than ten (10) days following the date on which the landlord serves an answer or reply to such cross-claim or counterclaim.

(b) The court shall mail written notice to all parties of the hearing or trial date at least five (5) days before such date.

(c) All parties may present evidence and conduct oral argument at the hearing or trial.

§3-8. Judgment, Execution, Stay of Execution.

(a) If, after trial or hearing or by stipulated agreement of the parties, the court enters judgment of possession of the dwelling unit in favor of the landlord, the court shall set a date on which such judgment shall be executed, which date shall be no less than five (5) days from the date of entry of judgment.

(b) If judgment of possession of the dwelling unit enters in favor of the landlord, the tenant may move the court for a stay of execution of the judgment of up to three (3) months. Such motion shall be filed with the court within five days of entry of judgment and shall

demonstrate that a stay of execution is necessary to avoid substantial hardship on the part of the tenant and would not result in substantial prejudice or injury to the landlord. Such motion shall be accompanied by a bond sufficient in amount to satisfy the judgment and pay for the reasonable use and occupancy of the dwelling unit during the length of the stay.

(c) The court, in granting a motion for stay of execution, may require the tenant to make reasonable use and occupancy payments to the landlord during the length of the stay.

§3-9. Forcible Eviction.

Where the court enters judgment of possession-in favor of the landlord and the tenant does not voluntarily vacate the dwelling unit on or before the date set for execution of judgment, the tenant may be forcibly evicted from the premises by a tribal law enforcement officer.

§3-10. Post-Judgment Remedies.

If within thirty (30) days after entry of a judgment awarding money damages and/or costs against a party, or within thirty (30) days after final resolution of an appeal to the appellate court from such a judgment, the judgment debtor, having been served notice of entry of judgment, has not paid the judgment amount in full or has failed to make installment payments in a manner agreed to by the parties, the Court shall, within fourteen (14) days of petition by the judgment creditor, order the judgment debtor to appear before it and answer under oath regarding the petition. At that time, the court shall determine what remedy is available and appropriate. Remedies include execution of the judgment, garnishment, property lien, mediation and contempt, as set forth in the Cheyenne River Sioux Tribe Code of Civil Procedure.

§3-11. No Self-Help Eviction.

No landlord may compel a tenant to vacate any premises without issuing a notice to quit on the tenant, initiating a civil eviction action, and obtaining a Court order as provided in this Code.

§3-12. Application of Tribal Rules of Civil Procedure.

Unless inconsistent with, or otherwise amended by, the eviction procedures set forth in this Chapter, the Rules of Civil Procedure of the Tribe shall apply to eviction actions brought pursuant to this Code.

Chapter 4. Security Deposits.

§4-4. Amount of Security Deposit.

A landlord may demand a security deposit in an amount equal to one-hundred dollars (\$100) or one month's periodic rent, whichever is greater, which may be in addition to the current month's rent.

§4-2. Payment of Security Deposit at Termination of Tenancy.

The person who is the landlord at the time a tenancy is terminated shall pay to the tenant or former tenant the amount of the security deposit that was deposited by the tenant with the person who was landlord at the time such security deposit was deposited less the value of any damages which any person who was a landlord of such premises at any time during the tenancy of such tenant has suffered as a result of such tenant's failure to comply with such tenant's obligations.

§4-3. Action to Reclaim Security Deposit.

Any tenant may bring an action in replevin or for money damages in Tribal Court to reclaim any part of his security deposit which may be due.

Chapter 5. Miscellaneous Provisions.

§5-1. Repealer.

Any and all provisions of Chapter II of Title X of the Cheyenne River Sioux tribe Law and Order Code which are inconsistent with the provisions of this Code shall be and hereby are repealed.

§5-2. Effective Date.

This Code shall take effect on (January 19, 2017).

§5-3. Retroactive Effect.


This Code shall have full retroactive effect and shall, apply to all rental agreements subject to the provisions of the Code, no matter when entered.

§5-4. Severability.

If any provision of this Code is found to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force and effect and shall not be impaired or invalidated in any way.

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 a meeting, duly and specially called, noticed, convened and held this 19th day of January 2017, Special Session, and that the foregoing LANDLORD-TENANT CODE was duly adopted at such meeting by a roll call vote of 12 yes, 0 no, 0 abstaining and 3 absent.


Ev Ann White Feather, Tribal Secretary
Cheyenne River Sioux Tribe