

contacts (also see **FOR FURTHER INFORMATION CONTACT**).

#### Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your submission, you should be aware that your entire submission—including your personal identifying information—may be made publicly available at any time. Although you can request that personal information be withheld from public review, we cannot guarantee that we will be able to do so.

#### Completed and Active Reviews

A list of all completed and currently active 5-year status reviews can be found at <https://ecos.fws.gov/ecp/report/species-five-year-review>.

#### Authority

This document is published under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Michael Oetker,

Acting Regional Director, Southeast Region,  
U.S. Fish and Wildlife Service.

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## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

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### Cheyenne River Sioux Tribe Alcoholic Beverages Control Law

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

**SUMMARY:** This notice publishes the Cheyenne River Sioux Tribe Alcoholic Beverages Control Law (“Ordinance”). This Ordinance amends and supersedes the existing Alcoholic Beverages Control Law, published in the **Federal Register** on May 20, 1992.

**DATES:** *Effective Date:* This Ordinance shall become effective June 12, 2023.

**FOR FURTHER INFORMATION CONTACT:** Todd Gravelle, Supervisory Tribal Operations Specialist, Great Plains Regional Office, Bureau of Indian Affairs, 115 Fourth Avenue Southeast, Suite 400, Aberdeen, South Dakota 57401, Telephone: (605) 226–7376, Fax: (605) 226–7379.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Act of August 15, 1953, Public Law 83–277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme

Court in *Rice v. Rehner*, 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor control laws for the purpose of regulating liquor transactions in Indian country. The Cheyenne River Sioux Tribe’s first Alcoholic Beverages Control Law was published in the **Federal Register** on May 20, 1992, (57 FR 21554) and this amendment supersedes the existing Ordinance, duly adopted by the Cheyenne River Sioux Tribe by Resolution No. 43–2023–CR on March 10, 2023. By the delegated authority contained in 3 IAM 4.4, the Great Plains Regional Director, Bureau of Indian Affairs, approved the amendment on April 6, 2023.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs. I certify that the Cheyenne River Sioux Tribe duly adopted this Alcoholic Beverages Control Law by Resolution No. 43–2023–CR on March 10, 2023.

Bryan Newland,

Assistant Secretary—Indian Affairs.

The Cheyenne River Sioux Tribe’s Alcoholic Beverages Control Law shall read as follows:

#### Ordinance No. 48

### Alcoholic Beverages Control Law Cheyenne River Sioux Tribe of South Dakota

#### As Amended

#### Section 1. Legislative Findings and Policy

Sec. 1–1–1. *Alcohol Abuse is an Epidemic.* The Tribal Council, being vested with the power to protect the public health and to provide for the peace and safety of residents of the Cheyenne River Sioux Indian Reservation, hereby finds that alcohol abuse is an epidemic within the territory of the Cheyenne River Sioux Tribe, and further finds that:

(A) Alcohol abuse leads to frequent early loss of life and morbidity among tribal members and other residents of the Reservation. For example, the age adjusted accident death rates due to homicide, suicide, motor vehicle accidents and diseases related to alcohol abuse are several times higher among tribal members than the general population of the United States, and 90 to 95% of serious trauma cases treated by the Indian Health Service on the Reservation are alcohol related.

(B) Alcohol abuse results in dysfunctional families on the Reservation, and the vast majority of child abuse, spousal abuse and elderly

abuse that occurs on the Reservation are alcohol related.

(C) Fetal Alcohol Syndrome and Fetal Alcohol Effect occur at alarming rates among children born within the territory of the Tribe, and children born with parental alcohol damage have difficulty caring for themselves all of their lives. The Tribe has a compelling interest in protecting children from Fetal Alcohol Syndrome and Fetal Alcohol Effect.

(D) Unemployment ranges from 60 to 65% among tribal members on the Reservation and poverty is widespread. Many tribal members suffer economic deprivation due to alcohol abuse, ranging from unemployment to starvation.

(E) Alcohol abuse contributes to the vast majority of the crime which takes place within tribal territory and places heavy burdens on the tribal criminal justice system and the tribal courts.

(F) Alcohol abuse has a devastating impact on our families and the Reservation Community, and the Tribal Council has a duty to combat alcohol abuse.

(G) Both the Tribe and the Federal Government devote tremendous resources to prevent and treat problems of alcohol abuse on the Reservation, yet even the combined treatment programs sponsored by the Tribe and Federal Government are not sufficient to address the problems of alcohol abuse. Far more must be done.

(H) The Tribe must exercise its regulatory authority to combat the problems of alcohol abuse on the Reservation through a comprehensive, consistent, and clearly defined plan to minimize alcohol consumption on the Reservation and to discourage unsafe drinking practices. In addition, the Tribe must raise additional revenue to combat the problems of alcohol abuse.

(I) Teenagers, young adults, and others are susceptible to new and increasingly dangerous high-alcohol-content beverages, some of which contain additives such as caffeine or sugar and increase the health concerns related to addiction and alcohol abuse.

Sec. 1–1–2. *Declaration of War on Alcohol Abuse.* For the spiritual well-being of our children and families and for the survival and strengthening of our people, the Cheyenne River Sioux Tribe declares War on Alcohol Abuse and strives for the speedy elimination of alcohol abuse and its associated problems from the Cheyenne River Indian Reservation. In furtherance of the Tribe’s War on Alcohol Abuse, the Tribal Council hereby declares that it is the policy of the Cheyenne River Sioux Tribe:

(A) to minimize alcohol consumption among residents of the Reservation;

(B) to discourage unsafe drinking practices, including, but not limited to, driving while intoxicated, alcoholism or chronic intoxication, violence related to alcohol abuse, public intoxication and drinking during pregnancy;

(C) to minimize the adverse health effects of drinking alcohol through prevention, regulation and treatment;

(D) to protect unborn children, who are people in their own right, from prenatal alcohol damage;

(E) to control the supply of alcoholic beverages through taxation and regulation, and to control conditions of availability of alcoholic beverages through education and regulation;

(F) to maximize education, prevention and treatment programs to fight alcohol abuse; and

(G) to cause those who sell or consume alcoholic beverages to bear a greater proportion of the costs associated with alcohol abuse through taxation of alcoholic beverages and alcoholic beverage dealers and dedicating revenue derived therefrom for alcohol abuse education, enforcement, prevention, regulation and treatment.

## Section 2. General Provisions and Definitions

Sec. 2–1–1. *Delegated Authority.* In accordance with Article IV, Section 3 of the Constitution (Future Powers), the Tribal Council of the Cheyenne River Sioux Tribe hereby exercises the authority delegated to the Tribe by the Congress of the United States of America to regulate the manufacture, distribution, sale, possession and consumption of alcoholic beverages within the territory of the Tribe.

Sec. 2–1–2. *Statement of Purpose.* The purpose of this Alcoholic Beverages Control Law is to regulate the manufacture, distribution, sale, possession and consumption of liquor on the Cheyenne River Indian Reservation. It is the Cheyenne River Sioux Tribe's intent in enacting this Ordinance to prohibit all traffic in liquor on the Cheyenne River Indian Reservation except to the extent allowed and permitted under the express terms of this Ordinance. Any person desiring to engage in the possession, sale, trade, transport or manufacture of alcoholic beverages on the Cheyenne River Sioux Indian Reservation shall comply with the rules and regulations set forth in this Alcoholic Beverages Control Law. This Ordinance shall be cited as the "Cheyenne River Sioux Alcoholic Beverages Control Law" and is promulgated pursuant to the

constitutional, delegated and inherent authority of the Tribe for the purpose of protecting the welfare, health, peace, morals and safety of all people residing on the Cheyenne River Indian Reservation. All the provisions of this Ordinance shall be liberally construed to accomplish the above-declared purpose.

Sec. 2–1–3. *Applicability.* This Ordinance shall apply to all persons engaged in the activities described herein on any and all lands and areas within the exterior boundaries of the Cheyenne River Indian Reservation, including lands held in fee, and all other lands subject to the jurisdiction of the Cheyenne River Sioux Tribe.

Sec. 2–1–4. *Definitions.* The terms used in this Alcoholic Beverages Control Law, unless the context plainly otherwise requires, shall mean:

(A) "Alcoholic beverages," any distilled spirits, wine and malt beverages as defined in this Ordinance.

(B) "Alcoholic Beverages Dealer," any person who sells or engages in commercial traffic in alcoholic beverages, including manufacturers, retailers, solicitors, transporters and wholesalers.

(C) "Cheyenne River Indian Reservation" shall include any and all lands within the territory of the Cheyenne River Indian Reservation as set forth in Article I of the Constitution of the Cheyenne River Sioux Tribe, whether said lands are trust, allotted or lands held in fee patent status.

(D) "Commission," the Alcoholic Beverage Control Commission.

(E) "Contraband," any alcoholic beverage introduced into, or possessed, offered for sale or used within, the territory of the Tribe contrary to tribal law and any receptacle or container in which such alcoholic beverages are found.

(F) "Director," the director of the Revenue Department.

(G) "Distilled spirits," ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all delusions and mixtures thereof, for nonindustrial use containing not less than one-half of one percent of alcohol by volume.

(H) "Distiller," means any person who owns, or who himself or through others, directly or indirectly, operates or aids in operating any distillery or other establishment for the production, rectifying, blending, or bottling of intoxicating liquor other than beer.

(I) "Intoxicating beverage," any alcoholic beverage.

(J) "Intoxicating liquor," any alcoholic beverage.

(K) "Liquor," any alcoholic beverage.

(L) "Malt beverage," a beverage made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates or products prepared therefrom, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human consumption containing not less than one-half of one percent of alcohol by volume, and commonly referred to as beer or ale.

(M) "Manufacturer," any person who owns, or who himself or through others, directly or indirectly, operates or aids in operating any facility which produces alcohol beverages.

(N) "Off Sale," the sale of any alcoholic beverage for consumption off the premises where sold.

(O) "On Sale," the sale of any alcoholic beverage for consumption only upon the premises where sold.

(P) "On-Sale dealer," any person who sells, or keeps for sale, any alcoholic beverage for consumption on the premises where sold.

(Q) "Package," means the bottle or immediate container of any alcoholic beverage.

(R) "Package dealer," any person other than a distiller, manufacturer, or wholesaler, who sells, or keeps for sale, any alcoholic beverage for consumption off the premises where sold.

(S) "Person," any individual, firm, partnership, joint venture, association, corporation, municipal corporation, estate, trust, business receiver, or any group or combination acting as a unit and the plural as well as the singular in number.

(T) "Retailer," or "retail dealer" any person who sells alcoholic beverages for other than resale.

(U) "Retail license," an on- or off-sale license issued under the provisions of this Ordinance.

(V) "Revenue Department," the Cheyenne River Sioux Tribal Revenue Department.

(W) "Sale," the transfer, for a consideration, of title to any alcoholic beverage.

(X) "Solicitor," any person employed by a licensed wholesaler within or without the territorial limits of the Cheyenne River Indian Reservation, or by any distiller or manufacturer within or without the reservation, who solicits orders of intoxicating liquor from wholesale or retail dealers within the Reservation.

(Y) "Superior Court," Cheyenne River Sioux Tribal Court.

(X) "Transportation company," or "transporter," any common carrier or operator of a private vehicle transporting or accepting for transportation any alcoholic beverage destined to be delivered to the Cheyenne River Indian Reservation, but not including transportation by carriers in interstate commerce where the shipment originates outside of the state and is destined to a point outside of the state.

(Y) "Treasurer," the duly elected and acting Treasurer of the Cheyenne River Sioux Tribe.

(Z) "Tribal Chairman," the Chairman of the Cheyenne River Sioux Tribe.

(AA) "Tribal Council," the governing body of the Cheyenne River Sioux Tribe.

(BB) "Wholesaler," any person who sells alcoholic beverages to retailers for resale.

(CC) "Wine," any liquid either commonly used, or reasonably adapted to use, for beverage purposes and obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing sugar and containing no less than one-half of one percent of alcohol by volume but not more than twenty-four percent of alcohol by volume.

### Section 3. Licensing Policies and Procedures

Sec. 3–1–1. *Granting of License.* Any person intending to introduce, sell trade, transport or manufacture alcoholic beverages on the Cheyenne River Indian Reservation shall make application for a license and present the completed application to the Revenue Department. The liquor license fees shall be in annual payments, due prior to the 1st day of January of each calendar year, for the following prescribed fees:

Sec. 3–1–2. *Wholesale Licensing.* The fee for an annual wholesale license shall be set by Tribal Council resolution at not less than Two Hundred Dollars (\$200.00) and no more than Three Thousand Dollars (\$3,000.00).

Sec. 3–1–3(A). *Retail Licensing.* The fee for an annual retail license shall be set by Tribal Council resolution at not less than One Hundred Dollars (\$100.00) and no more than Twenty-Five Hundred Dollars (\$2,500.00).

Sec. 3–1–3(B). *Temporary Retail Licensing.* A temporary alcoholic beverage license may be issued in conjunction with a special event, to be determined by the Commission, to a civic, charitable, educational, fraternal, or veteran's organization or to the holder of an annual license. Any

temporary license issued under this section is limited to the conditions specified in the license, including a designation of the premises at which the licensee may introduce, sell or offer to keep for sale or transport for sale alcoholic beverages, and said temporary license may not exceed an effective period of four days. The fee for a temporary license shall be set by the Alcoholic Beverage Control Commission, and shall be no less than One Hundred Dollars (\$100) and no more than Seven Hundred Fifty Dollars (\$750). The fee must be submitted with the application before the application will be considered by the Commission.

Sec. 3–1–4. *Transport Licensing.* The fee for an annual transport license shall be set by Tribal Council resolution at not less than Two Hundred Dollars (\$200.00) and no more than One Thousand, Five Hundred Dollars (\$1,500.00).

Sec. 3–1–5. *Operating of a plant distilling intoxicating liquor.* The fee for an annual distilling plant license shall be set by Tribal Council resolution not less than One Thousand Dollars (\$1,000.00) and no more than Five Thousand Dollars (\$5,000.00).

Sec. 3–1–6. *Solicitors.* The fee for an annual solicitors license shall be set by Tribal Council resolution at not less than Two Hundred Dollars (\$200.00) and no more than Seven Hundred Fifty Dollars (\$750.00).

Sec. 3–1–7. *Alcoholic Beverage Control Commission.* There is hereby created a Cheyenne River Sioux Alcoholic Beverage Control Commission.

(A) The Alcoholic Beverage Control Commission shall consist of six (6) members of the Tribal Council, including one member from each tribal voting district, to be selected by the Tribal Chairman, and one (1) physician or other expert professionally trained in the area of alcohol abuse prevention and treatment, to be selected by the Tribal Chairman.

(B) The Commissioners shall, by majority vote, elect one Commissioner to serve as Chairman of the Commission. The Chairman shall preside at Commission meetings and hearings but shall not exercise his power to vote, except in the case of a tie. The Commissioners shall, by majority vote, elect one Commissioner to serve as Vice-Chairman of the Commission. The Vice-Chairman shall preside at Commission meetings and hearings in the absence of the Chairman and, when so presiding, shall not exercise his power to vote, except in the case of a tie.

(C) A quorum of the Commission shall consist of three members, and a quorum

is required to exercise Commission authority.

(D) No Commission member shall participate in any Commission decision in which he has a direct interest or in which any member of his immediate family has a direct interest.

Sec. 3–1–8. *Powers of the Alcoholic Beverage Control Commission.* Commissioners shall be appointed for terms of two years, and shall be removed by the Tribal Council only for cause, after notice and an opportunity for a hearing before the Tribal Council. When a vacancy occurs on the Commission, the Tribal Council shall appoint a new Commissioner for the balance of the term.

(A) The Alcoholic Beverage Control Commission shall exercise regulatory and administrative authority of the Tribe under this Ordinance and shall have the power to:

(1) Review license applications and grant licenses;

(2) Conduct hearings on alleged violations of this Ordinance in the manner set forth in Section 6. The Commission may issue subpoenas and compel any licensee, or his agent or servant, to appear before it and to provide any information or documents it requires;

(3) Establish rules and regulations governing the conduct of the Commission and the exercise of Commission authority and establish rules and regulations to implement this Ordinance, in the manner set forth in Section 3–1–12 of this Ordinance;

(4) Collect taxes, impose penalties, suspend and/or revoke licenses when violations of this Ordinance are proved by a preponderance of the evidence;

(5) Enjoin violations of this Ordinance and enforce the orders of the Commission;

(6) Distribute funds collected from any taxes, fees and fines imposed under this Ordinance. The Commission shall distribute such funds to further the purposes of alcohol abuse education, enforcement, prevention, regulation and treatment; and

(7) Require payment of reasonable, non-discriminatory fees to cover administrative costs associated with licensing a liquor establishment in addition to the fees set forth in this Ordinance, provided such additional fees are established by rule or regulation in the manner set forth in Section 3–1–12 of this Ordinance.

(8) Exercise any other power of the Alcoholic Beverage Control Commission set forth elsewhere in this Ordinance.

(B) (1) Taxes may be collected by the Commission through assessment and distraint or other necessary means;

(2) Penalties may be collected through the attachment, levy and sale of property or other necessary means; and

(3) Orders suspending or revoking licenses or enjoining the operations of liquor dealers may be enforced by the Tribal Police acting at the direction of the Commission.

Sec. 3–1–9. *Qualifications for License.* No license of any kind shall be issued under this Ordinance, including a wholesale license, retail license, temporary retail license, transport license, distilling plant license, and solicitors license, unless the applicant shall be twenty-one (21) years of age, has filed a sworn application, accompanied by the required fee, showing the following qualifications and subject to the following standard:

(A) An applicant, other than a corporation, must be a legal resident of the United States and a person of good moral character. If the applicant is a corporation, partnership, joint venture, association, municipal corporation, estate, trust, business receiver or firm, the manager of the licensed premises must be a resident of the United States and a person of good moral character. Officers and directors of corporations, and partners, and directors of corporations, and partners, joint venturers, principals of associations and municipal corporations, trustees, business receivers and members of firms must be legal residents of the United States and persons of good moral character. Applicants must also have a business license with the Cheyenne River Sioux Tribe to be entitled to do business on the Cheyenne River Indian Reservation.

(B) The Alcoholic Beverage Control Commission may require the applicant to set forth such other information as is necessary to enable it to determine if a license should be granted.

(C) The Alcoholic Beverage Control Commission shall issue a license only if the qualifications set forth herein are satisfied and if it concludes, within its discretion, that the best interests of the Reservation community shall be served. In considering applications by retail dealers, the Alcoholic Beverage Control Commission may take into account the following factors, among others, in determining whether the issuance of a license will serve the best interests of the Reservation community:

(1) whether the license applied for is for the operation of a new or an existing retail liquor establishment.

(2) whether the applicant is in compliance with applicable tribal, State and Federal law;

(3) whether the applicant has violated any provision of this Ordinance, and if

so, whether the violation has been remedied;

(4) the location, number and density of retail liquor establishments in the community;

(5) whether food is sold at the establishment; and

(6) the health and welfare of the public.

Sec. 3–1–10. *Public Comments.* Before the issuance of any tribal liquor license, the Cheyenne River Sioux Tribe shall allow comments from the public. The Alcoholic Beverage Control Commission shall be the determining authority for the granting of any tribal liquor license.

Sec. 3–1–11. *Appeal.* Any applicant who is denied a license by the Alcoholic Beverage Control Commission may appeal the Commission's decision to deny the license to the Superior Court by filing a notice of appeal with the Court, clearly stating the grounds therefore, and serving a copy of the notice of appeal by hand on the Director of the Revenue Department within thirty (30) days from the date of the decision. The Superior Court shall uphold the decision of the Alcoholic Beverage Control Commission unless it finds that the Commission's decision was arbitrary and capricious, an abuse of discretion, or not in accordance with this Ordinance or other applicable tribal or Federal law.

Sec. 3–1–12. *Regulatory Authority of the Alcoholic Beverage Control Commission.*

(A) *Proposal of Regulations.* The Commission may, on its own initiative, propose rules and regulations that are consistent with this Ordinance and that implement the provisions of this Ordinance, except in the case of rules and regulations that implement Section 4–1–10 of this Ordinance, which rules and regulations may be proposed only in the manner set forth in Section 4–1–10.

(B) *Notice and Publication of Proposed Regulations.*

(1) The Commission shall publish notice of Proposed Regulations in order to provide interested parties an opportunity to comment.

(2) Notice of the Proposed Regulations shall be made by publication in one or more newspapers of general circulation on the Reservation, provided that such newspaper or newspapers have a general circulation in Dewey County and Ziebach County.

(3) The notice shall invite written comments on the Proposed Regulations and give a deadline for their submission not less than sixty (60) days after publication of the notice.

(4) A copy of the Proposed Regulations shall be filed with and

made available for public inspection at the Office of the Tribal Secretary.

(C) *Public Comment and Hearings.*

(1) The Commission shall consider all written comments on the Proposed Regulations that are submitted within sixty (60) days after publication of the notice referred to in subpart (B) of this section.

(2) The Commission may, in its sole discretion, hold one or more public hearings on the Proposed Regulations. The Commission shall have the authority to conduct and preside over such hearings and, if necessary in its discretion, establish procedures for the conduct of such hearings.

(D) *Action on Proposed Regulations.* After expiration of the public comment period and after one or more public hearings, if any are held in the sole discretion of the Commission pursuant to subpart (C)(2) of this section, the Commission may:

(1) Amend the Proposed Regulations by adding, changing, or deleting text therefrom in accordance with the procedures set forth in subpart (E) of this section, except in the case of Proposed Regulations to implement Section 4–1–10, which may not be amended by the Commission; or

(2) Adopt the Proposed Regulations, without amendment, as Final Regulations and publish them in accordance with subpart (F) of this section; or

(3) Reject the Proposed Regulations.

(E) *Interim Regulations.*

(1) Proposed Regulations that are amended pursuant to subpart (D)(1) of this section shall be known as "Interim Regulations."

(2) The Commission shall publish notice of Interim Regulations in the same manner for the publication of notices of Proposed Regulations, as set forth in subpart (B) of this section, provided that the notice of Interim Regulations may set forth a shortened written comment period of not less than thirty (30) days after publication of the notice.

(3) A copy of the Interim Regulations shall be filed with and made available for public inspection at the Office of the Tribal Secretary.

(4) The Commission shall consider all written comments on the Interim Regulations that are submitted within thirty (30) days after publication of the notice referred to in subpart (E)(2) of this section.

(5) The Commission may, in its sole discretion, hold one or more public hearings on the Interim Regulations. The Commission shall have the authority to conduct and preside over such hearings and, if necessary in its

discretion, establish procedures for the conduct of such hearings.

(6) After expiration of the public comment period and after one or more public hearings, if any are held in the sole discretion of the Commission pursuant to the preceding subpart, the Commission may:

(a) Further amend the Interim Regulations by adding, changing, or deleting text therefrom and, in respect to the further amended Interim Regulations, follow the same procedures set forth in this subpart for notice, publication, public comment, public hearings, if any, consideration, and adoption of Interim Regulations;

(b) Adopt the Interim Regulations, without amendment, as Final Regulations and publish them in accordance with subpart (F) of this section; or

(c) Reject the Interim Regulations.

(F) *Publication of Final Regulations.*

(1) Following adoption of Final Regulations by the Commission, the Commission shall publish the Final Regulations in one or more newspapers of general circulation in Dewey and Ziebach Counties on the Reservation.

(2) The Final Regulations shall become effective thirty (30) days after publication or on such later date as may be specified in the Final Regulations.

(3) A copy of the Final Regulations shall be filed with and made available for public inspection at the Office of the Tribal Secretary.

#### Section 4. Prohibitions

Sec. 4–1–1. *General Prohibitions.* It shall be unlawful to introduce, manufacture for sale, sell or offer to keep for sale or transport for sale alcoholic beverages, on the Cheyenne River Indian Reservation except upon the terms, conditions, limitations, and restrictions specified in this Ordinance. No sale of liquor shall be made within the Reservation except by persons holding a liquor license issued by the Commission and except at licensed premises. In addition to any other civil penalty provided for in this Ordinance, each violation of this section may subject the violator to a civil fine not to exceed Five Thousand Dollars (\$5,000).

Sec. 4–1–2. *Disposal Prohibited on Certain Days.* No licensee of any class shall sell intoxicating liquor on Sunday, Memorial Day and Christmas Day. No licensee of any class shall sell intoxicating liquor on Tribal election day while the polls are open. In addition to any other civil penalty provided for in this Ordinance, any licensee who violates this section may be subject to a civil fine not to exceed Five Hundred Dollars (\$500) for each

violation. The Alcoholic Beverage Control Commission may, in its discretion, waive the prohibition on Sunday sales and it may waive the prohibition on the sale of intoxicating liquor for any other specified day set forth herein. The Commission shall provide reasonable notice to the public and retailers of any such waiver.

Sec. 4–1–3. *Disposal Prohibited During Certain Hours.* No licensee shall sell, provide, or allow the consumption of, alcoholic beverages to any person on the licensed premises before eleven o'clock a.m. or after one o'clock a.m., Mondays through Thursdays; and no licensee shall sell, provide, or allow the consumption of, alcoholic beverages to any person on the licensed premises before eleven o'clock a.m. or after two o'clock a.m., Fridays through Saturdays. No off-sale dealer shall sell or provide alcoholic beverages to any person before eleven o'clock a.m. or after eleven o'clock p.m., Mondays through Thursdays, and no off-sale dealer shall sell or provide alcoholic beverages to any person before eleven o'clock a.m. or after twelve o'clock a.m. (midnight), Fridays through Saturdays. In addition to any other civil penalty provided for in this Ordinance, any licensee who violates this section may be subject to a civil fine not to exceed Five Hundred Dollars (\$500) for each violation. The Alcoholic Beverage Control Commission may, in its discretion, adjust the hours during which the sale of alcoholic beverages is prohibited. The Commission shall provide reasonable notice to the public and retailers of any such adjustment.

Sec. 4–1–4. *Prohibition as to Persons Under Twenty-One Years of Age.* No licensee of any class shall provide directly or by a clerk, agent or servant, intoxicating beverages to any person under the age of twenty-one (21) years. In addition to any civil penalty provided for in this Ordinance, any licensee who violates this section may be subject to a civil fine not to exceed Five Hundred Dollars (\$500) for each violation.

(A) In addition, any person who is injured as a result of a violation of this section shall have a right of action against the person who contributed to his injury by providing alcoholic beverages to a minor person. The Superior Court shall have jurisdiction to hear such actions.

(B) An action under Subsection (A) of this section shall be commenced within 2 years after the damage, injury or death.

(C) *Evidence of Age and Identity.* Evidence of age and identity of a purchaser of liquor must be shown by

a current and valid driver's license, tribal identification, or a United States passport, which contains the signature, birth date, and picture of the holder of the license or passport, or any other form of identification acceptable to the Commission

(D) *Demand for Identification.* Liquor establishments shall have the authority to demand of any person the production of proper evidence of age and identity before making a sale of liquor to such person.

(E) *Right and Duty to Refuse Sale.* A liquor establishment shall have the authority and duty to refuse to sell liquor to any person who is unable to produce proper evidence of age and identity as prescribed by this section.

(F) *Persons under twenty-one (21) years of age are prohibited from the premises of on-sale licensees, except as set forth in subsection G of this section.*

(G) *Notwithstanding Sections 4–1–4(F) and 9–1–5, persons under twenty-one (21) years of age may be present on the premises of on-sale licensees:*

(1) Whose sale of alcoholic beverages constitutes less than fifty percent (50%) of the gross business transaction by the licensee at the premises, as determined and certified by the Commission; or

(2) Whose sale of alcoholic beverages constitutes more than fifty percent (50%) of the gross business transacted by licensee at the premises, but who have erected a physical barrier or barriers, inspected and approved by the Commission, to allow for multiple uses of multiple areas of the premises by persons of all ages, provided that persons under the age of twenty-one (21) are not permitted access to any area in which the sale of alcoholic beverages constitutes more than fifty percent (50%) of the gross revenues transaction by the licensee in the area, as determined and certified by the Commission. For the purposes of this subsection, a physical barrier includes, but is not limited to, a wall, fence, rope, railing, or other physical feature erected for the sole purpose of restricting the free flow of foot traffic and access to a certain area of the premises.

Sec. 4–1–5. *Prohibition as to Provision to Intoxicated Persons.*

(A) No licensee of any class shall provide directly or by a clerk, agent or servant, alcoholic beverages to a visibly intoxicated person. In addition to any other civil penalty provided for in this Ordinance, any licensee who violates this section may be subject to a civil fine not to exceed Five Hundred Dollars (\$500) for each violation.

(B) In addition, any person who is injured as a result of a violation of this section shall have a right of action

against the person who contributed to his injury by providing alcoholic beverages to a visibly intoxicated person. The Superior Court shall have jurisdiction to hear such actions.

(C) An action under Subsection (B) of this section shall be commenced within 2 years after the damage, injury or death.

**Sec. 4–1–6. Prohibition as to Purchase or Use by Pregnant Persons.** No licensee of any class shall knowingly provide directly or by a clerk, agent or servant alcoholic beverages to any person who is pregnant. In addition to any other civil penalty provided for in this Ordinance, any licensee who violates this section may be subject to a civil fine not to exceed Five Hundred Dollars (\$500) for each violation.

**Sec. 4–1–7. Prohibition as to Purchase or Use by Pregnant Persons.** No person shall purchase, obtain or use alcoholic beverages while pregnant. Any person who violates this section may be subject to a civil fine not to exceed Five Hundred Dollars (\$500). When there is serious danger of prenatal alcohol damage to the unborn child, the violator may be civilly committed to an alcohol abuse treatment facility for a period of time not to exceed the duration of the pregnancy by order of the Superior Court. The Superior Court shall, in determining such cases, follow the procedural rules provided by tribal law for involuntary civil commitments.

**Sec. 4–1–8. Prohibition Against Cashing Subsistence Checks.** No licensee of any class shall, directly or by a clerk, agent or servant, knowingly cash or accept any General Assistance check issued by the Federal Government, any Aid to Families with Dependent Children check issued by the State government or any other Government subsistence check. In addition to any other civil penalty provided for in this Ordinance, any licensee who violates this section may be subject to a civil fine not to exceed Five Hundred Dollars (\$500) for each violation.

**Sec. 4–1–9. Prohibition Against Drive-up Windows.** No licensee shall sell or provide alcoholic beverages from a drive through window or entrance. In addition to any other civil penalty provided for in this Ordinance, any licensee who violates this section may be subject to a civil fine not to exceed Five Hundred Dollars (\$500) for each violation.

**Sec. 4–1–10. Prohibition Against Specific Alcoholic Beverages.**

(A) This Ordinance authorizes the prohibition against the introduction, manufacture for sale, sale or offer to keep for sale, or transport for sale of specific types of alcoholic beverages,

which are deemed to have a harmful impact on the health and welfare of the Tribe and its members, provided that such prohibitions are adopted in the following manner:

(1) Tribal Council may by Tribal Council Resolution make a recommendation to the Commission that it consider a rule or regulation prohibiting the introduction, manufacture for sale, sale or offer to keep for sale, or transport for sale of a particular alcoholic beverage.

(2) The Commission shall consider whether to adopt such recommendation by following the procedures set forth in Section 3–1–12.

(B) The Commission will maintain a list of alcoholic beverages prohibited by regulation that will be distributed annually, free of charge, to all licensees. The list will be updated and distributed, free of charge, to all licensees within twenty (20) days of adoption of a regulation containing any new prohibition.

(C) In addition to any other civil penalty provided for in this Ordinance, any licensee who violates a prohibition duly adopted and published by the Commission under this section and Section 3–1–12 may be subject to a civil fine not to exceed Five Hundred Dollars (\$500) for each violation.

## Section 5. Taxation

**Sec. 5–1–1. Wholesale Alcoholic Beverage Excise Tax.** There is hereby imposed a wholesale alcoholic beverage excise tax of 7.5% on the whole price of all alcoholic beverages introduced into the Cheyenne River Indian Reservation for sale or provision to a retail alcoholic beverage dealer.

**Sec. 5–1–2. Delivery of Beverages for Resale Prohibited Except to Licensees.** No manufacturer, wholesaler, or transporter shall sell or deliver any package containing alcoholic beverages manufactured or distributed by him for resale, unless the person to whom such package is sold or delivered is a licensed alcoholic beverage dealer. In addition to any other civil penalty provided for in this Ordinance, any person who violates this section may be subject to a civil fine not to exceed Two Hundred and Fifty (\$250) for each violation.

**Sec. 5–1–3. Retail Alcoholic Beverages dealers to Purchase only from Licensed Wholesalers, Etc.** Retail alcoholic beverage dealers shall buy or receive alcoholic beverages only from wholesalers, solicitors or transporters licensed under this Ordinance. In addition to any other civil penalty provided for in this Ordinance, any person who violates this section may be

subject to a civil fine not to exceed Five Hundred Dollars (\$500) for each violation.

**Sec. 5–1–4. Monthly Return and Payment of Wholesale Alcoholic Beverage Excise Tax.** Wholesalers and other alcoholic beverage dealers who introduce, or otherwise cause to be introduced, alcoholic beverages into the Cheyenne River Indian Reservation for provision to retail alcoholic beverage dealers shall be liable for payment of the wholesale alcoholic beverage excise tax and shall file monthly returns with the Revenue Department, on such forms as the Revenue Department may require, showing the kind, quantity and price of the alcoholic beverages introduced, or otherwise caused to be introduced, into the Cheyenne River Indian Reservation, along with the names of the persons to whom the alcoholic beverages were provided, the amount of the tax due and other information which the Revenue Department may reasonably require. Said return, covering the period of one calendar month, shall be transmitted to the Revenue Department on or before the twenty-fifth day of the month following the close of the reporting period. The tax due for that period shall be remitted together with the monthly return.

**Sec. 5–1–5. Records and Reports Required of Licensees—Entry and Examination of Default.** Any person liable for the payment of the wholesale alcoholic beverage excise tax shall keep, in current and available form on the licensed premises, records of all purchases, sales, quantities on hand and such other information as the Director of the Revenue Department may reasonably require. The Director may require from any licensee any reports he or she shall prescribe, and he or she may require the production of any book, record, document, invoice, and voucher kept, maintained, received, or issued by any such licensee in connection with his business, which in the judgment of the Director may be necessary to administer and discharge his duties, to secure the maximum of revenue to be paid, and to carry out the provisions of the law. If default is made, or if any such licensee fails or refuses to furnish any other reports or information referred to upon request therefore, the Director may enter the premises of such licensee where the records are kept and make such examination as is necessary to compile the required report. The cost of such examination shall be paid by the licensee whose reports are in default.

**Sec. 5–1–6. Reports Required on Shipments of Beverages into Reservation.** Any person outside the Reservation who sells or ships alcoholic

beverages to a manufacturer, wholesaler, solicitor, transporter or retailer within this Reservation shall forthwith forward to the Director such a report as the Director shall require, giving the name and address of the licensee or person making the purchase, the quantity and kind of alcoholic beverages sold, the manner of delivery and such other information as the Director requires.

Sec. 5–1–7. *Tax Stamps.* The wholesale alcoholic beverage excise tax shall be required to be evidenced by an identification stamp to be affixed to original packages of alcoholic beverages introduced into the Cheyenne River Indian Reservation. The Revenue Department shall adopt the design of the identification stamp, procure manufacture of the stamp, and shall issue rules regarding the issuance and use of the stamp.

Sec. 5–1–8. *Counterfeiting of Stamps.* Every person who shall make, manufacture, counterfeit, duplicate or in any way imitate, any identification stamp, provided for in Section 5–1–4 above, or who shall possess or in any way use such counterfeit or imitated stamp, may be assessed a fine not to exceed Five Thousand Dollars (\$5,000) for each violation.

Sec. 5–1–9. *Penalty and Interest on Delinquency in Payment of Tax—False Return—Collection of Tax and Penalties.* If any person liable for the wholesale alcoholic beverage excise tax fails to pay the tax on the date payment is due, there shall be added to the tax ten percent of the amount of the tax unpaid. The amount of the tax and penalty shall bear interest at 1.5% per month from the date of delinquency until paid. If any licensee files a false or fraudulent return, there shall be added to the tax an amount equal to the tax evaded, or attempted to be evaded. All such taxes and civil penalties may be collected by assessment and distraint.

Sec. 5–1–10. *Possession of Unstamped Beverages Prohibited.* No person may possess any alcoholic beverage other than in a package upon which the required tax stamps are affixed. In addition to forfeiture and any civil penalty provided for elsewhere in this Ordinance, each violation of this section shall subject the violator to a civil fine not to exceed Five Hundred Dollars (\$500).

Sec. 5–1–11. *Luxury Tax on Retail Purchase of Alcoholic Beverages.* There is hereby imposed a luxury tax of 12% on the retail sale price of alcoholic beverages purchased on sale from on-sale liquor dealers within the Cheyenne River Indian Reservation. There is hereby imposed a luxury tax of 15% on the retail sale price of alcoholic

beverages purchased off sale from off sale package dealers within the Cheyenne River Indian Reservation. This tax shall be levied and collected in addition to any tribal sales tax.

Sec. 5–1–12. *Monthly Return, Collection and Remittance of Luxury Tax on Retail Purchase of Alcoholic Beverages.* Retail alcoholic beverage dealers shall be liable for the collection and remittance of the luxury tax on the retail sale price of alcoholic beverages. Retail alcoholic beverage dealers shall keep accurate records of all sales of alcoholic beverages and shall file monthly returns with the Revenue Department, on such forms as the Revenue Department may require, showing the quantity and the price of alcoholic beverages sold at retail, along with the amount of the tax due and other information which the Revenue Department may reasonably require. Said return, covering the period of one calendar month, shall be transmitted to the Revenue Department on or before the twenty-fifth day of the month following the close of the reporting period. The tax due for that period shall be remitted together with the monthly return.

Sec. 5–1–13. *Reports Required of Retail Alcoholic Beverage Dealers.* Retail Alcoholic beverage dealers shall keep, in current and available form on the licensed premises, records of all purchases, sales, quantities on hand and such other information as the Director of the Revenue Department may reasonably require. The Director may require from any licensee any reports he shall prescribe, and he may require the production of any book, record, document, invoice, and voucher kept, maintained, received, or issued by any such licensee in connection with his business, which in the judgment of the Director may be necessary to administer and discharge his duties, to secure the maximum of revenue to be paid, and to carry out the provisions of law. If default is made, or if any such licensee fails or refuses to furnish any other reports or information referred to upon request therefore, the Director may enter the premises of such licensee where the records are kept and make such examination as is necessary to compile the required report. The cost of such examination shall be paid by the licensee whose reports are in default.

Sec. 5–1–14. *Penalty and Interest on Delinquency in Collection and Remittance of Tax—False Return—Collection of Tax and Penalties.* If any person responsible for the collection and remittance of the luxury tax on retail alcoholic beverage sales fails to remit the tax on the date that payment

is due, there shall be added to the amount of the tax due ten percent of the amount of the tax unpaid. The amount of the tax and penalty shall bear interest at the rate of 1.5% per month from the date of delinquency until paid. If any licensee files a false or fraudulent return, there shall be added to the tax an amount equal to the tax evaded, or attempted to be evaded. All such taxes and civil penalties may be collected by assessment and distraint.

Sec. 5–1–15. *Tax Agreements Authorized.* The Tribal Council finds that the public interest of residents of the Reservation is best served by cooperation between the Tribe, the State of South Dakota and/or its subdivisions in the area of taxation of alcoholic beverages. Accordingly, the Tribal Council hereby authorizes the Revenue Department to negotiate tax collection agreements with the State and/or state subdivisions. Such agreements shall be submitted by the Revenue Department to the Tribal Council for approval before they are final.

Sec. 5–1–16. *Dedication of Tax Revenue.* All tax revenue collected pursuant to this Ordinance shall be dedicated to alcohol abuse education, enforcement, prevention, regulation and treatment.

## **Section 6. Penalties Imposed for Violations of Ordinance**

Sec. 6–1–1. *General Penalties.* Anyone violating this Ordinance shall be subject to suspension or revocation of their tribal liquor license, including but not limited to their wholesale license, retail license, temporary retail license, transport license, distilling plant license, and solicitors license.

Sec. 6–1–2. *Hearing on Alleged Violations.* Anyone having information that a person has violated any provisions of this Ordinance may file with the Revenue Department an affidavit specifically setting forth such violation. Upon receipt of such affidavit, the Revenue Department may set the matter for a hearing before the Alcoholic Beverage Control Commission within 60 days. A copy of the affidavit and notice of hearing shall be mailed to the affected person by registered mail not less than five days before the hearing. A record of such hearings will be made by stenographic notes or by the use of an electronic recording device. The person shall have the right to be represented by counsel, question witnesses and examine the evidence against him or her as well as to present evidence and witnesses in his or her own defense.

Sec. 6–1–3. *Suspension or Revocation of License.* If after such hearing the Alcoholic Beverage Control Commission



finds the violation set forth in the affidavit has been proved by preponderance of the evidence, an order shall be served on the licensee revoking or suspending the license for a period of time or imposing such other civil penalties as are provided for in this Ordinance. A decision of the Commission imposing civil fines or directing the payment of taxes may be automatically stayed by posting an appeal bond with the Superior Court in the amount of the fine imposed or taxes to be collected. A decision of the Commission revoking or suspending a license may be automatically stayed by posting a Ten Thousand Dollar (\$10,000) appeal bond with the Superior Court.

Sec. 6–1–4. *Powers of the Alcoholic Beverage Control Commission Chairman.* The Chairman of the Alcoholic Beverage Control Commission, or his designee, at a hearing under this Ordinance shall have the power to administer oaths and to subpoena and examine witnesses.

Sec. 6–1–5. *Appeal.* Any person who is aggrieved by a decision of the Alcoholic Beverage Control Commission suspending or revoking a license, imposing a civil penalty or collecting taxes imposed by this Ordinance may appeal the Commission's decision to the Superior Court by filing a notice of appeal, clearly stating the grounds therefore, and serving a copy of the notice of appeal by hand on the Director of the Revenue Department within thirty days from the date of the decision. The Superior Court shall uphold the decision of the Alcoholic Beverage Control Commission unless it finds that the Commission's decision was arbitrary and capricious, and an abuse of discretion, or not in accordance with this Ordinance or other applicable tribal or Federal law. In the event that a decision imposing a civil penalty or ordering the collection of taxes is overturned on appeal, the Court may order the Commission to refund such penalty or taxes.

## Section 7. Contraband

Sec. 7–1–1. *Contraband Alcoholic Beverages—Containers—Forfeiture.* The introduction of alcoholic beverages into, and possession, sale or use of alcoholic beverages within, the territory of the Cheyenne River Sioux Tribe contrary to tribal law is inimical to the public interest. All alcoholic beverages introduced into, or possessed, offered for sale or used within, the territory of the Cheyenne River Sioux Tribe contrary to tribal law, and any receptacle or container of any kind in which said alcoholic beverages are

found, are hereby declared to be contraband. No property right shall exist in contraband alcoholic beverages or any receptacle or container wherein such alcoholic beverages are found. Contraband alcoholic beverages and any receptacle or container in which such alcoholic beverages are found are hereby declared forfeit and shall be seized forthwith. In addition to any other civil penalty in this Ordinance, any person who violates this section may be subject to a fine not to exceed Five Thousand Dollars (\$5,000).

Sec. 7–1–2. *Seizure of Contraband Alcoholic Beverages—Containers—Search Warrant.* When an officer of the Tribe has probable cause to believe that a person has contraband alcoholic beverages within the territory of the Tribe and a search warrant is required under tribal law or under the Federal Indian Civil Rights Act, 25 U.S.C. 1301 *et seq.*, he may apply to the Superior Court of the Tribe for a warrant to authorize the search of said person and any places, containers, conveyances, and receptacles, etc., which the officer has probable cause to believe contains said contraband alcoholic beverages. If the Superior Court determines that probable cause exists that a person has contraband alcoholic beverages within the territory of the Tribe, then the Court shall issue a search warrant describing the person, places and things to be searched and the things to be seized. The officer shall execute the search warrant and seize any and all contraband alcoholic beverages found and any receptacles and any containers in which said contraband alcoholic beverages are found. The officer shall store the contraband in the Evidence Room of the Law Enforcement Department or such other location as determined by the Commission to be an adequate storage facility for contraband. The contraband shall be stored for a period of not less than ninety (90) days prior to disposition, provided that if any person claiming an interest therein files a claim with the Superior Court, pursuant to Section 7–1–3, for a determination as to whether the items seized are contraband, the contraband shall be stored until the time for filing an appeal from a Superior Court determination has elapsed, if no appeal is taken and if an appeal is taken from any determination by the Superior Court, the contraband shall be held until the appeal is fully and finally decided.

Sec. 7–1–3. *Judicial Determination as to Nature of Alcoholic Beverages Seized.*

(A) Within ten calendar days after the seizure of any alcoholic beverages, or any receptacle or container in which said alcoholic beverages are found, on

the grounds that they are contraband, any person claiming an interest therein may initiate an action for a determination as to whether the items seized are contraband by filing a claim with the Superior Court and serving notice of the claim on the Director of the Revenue Department. The Superior Court shall then schedule a hearing on the matter within fifteen calendar days after the filing of the claim.

(B) The Superior Court shall, upon good cause shown, permit discovery to be taken on an expedited basis. The Superior Court shall regulate the manner and timing of such discovery; provided that when the Superior Court orders expedited discovery, the time for a hearing may be postponed for a period of sixty (60) days. All discovery shall be completed prior to the hearing date.

(C) The Tribe shall have the burden to establish a prima facie case that items seized are contraband, and after such proof is made, the burden shall shift to the claimant to prove by a preponderance of the evidence that the items seized are not contraband.

(D) If the Superior Court determines that the items seized by the Tribe are not contraband, the Court shall order the return of the items to the claimant after the time for filing an appeal has elapsed. If the Superior Court determines that the items seized are contraband, the Court shall declare the items to be contraband and the Tribe may dispose of the contraband as it deems fit after the time for filing an appeal has elapsed, if no appeal is taken. If an appeal is taken from any determination by the Superior Court, the contraband shall be held until the appeal is fully and finally decided.

(E) The Tribe may appeal an adverse decision of the Superior Court under this section to the Appellate Court by filing a notice of appeal within ten calendar days of the date of the decision of the Superior Court. Filing of the notice of appeal by the Tribe shall automatically stay the decision of the Superior Court. The Appellate Court shall uphold the decision of the Superior Court unless it is clearly erroneous.

(F) The claimant may appeal an adverse decision of the Superior Court under this section to the Appellate Court by filing a notice of appeal within ten calendar days of the date of the decision of the Superior Court and posting an appeal bond in an amount set by the Superior Court. The Superior Court shall set the appeal bond in an amount sufficient to pay for the storage of the items in dispute during the pendency of the appeal and any court costs which may be incurred by the



Tribe on the appeal. Filing of the notice of appeal by the claimant and payment of the appeal bond shall automatically stay the decision of the Superior Court. The Appellate Court shall uphold the decision of the Superior Court unless it is clearly erroneous.

### Section 8. Exceptions

Sec. 8–1–1. *Exceptions to this Ordinance.* The provisions of this Ordinance shall not apply to the sale of alcoholic beverages, or to ethanol, used or intended for use, for the following purposes:

(A) For scientific research or manufacturing products other than liquor;

(B) Medical use under the direction of a physician, medical or dental clinic, or hospital;

(C) In preparations not fit for human consumption such as cleaning compounds and toilet products, or flavoring extracts;

(D) By persons exempt from regulation in accordance with the laws of the United States; or

(E) For sacramental use such as wines delivered to priests, rabbis, and ministers.

### Section 9. Miscellaneous Provisions

Sec. 9–1–1. *Agreement by Licensee to Grant Access for Inspection Purposes.* Every licensee under this Ordinance, as a condition of the grant of a tribal license, consents to the inspection of his premises, including all buildings, safes, cabinets, lockers and storerooms thereon. Such inspection shall be available upon the demand of the Commission. These inspections shall be conducted by a duly appointed designee of the Commission, or tribal or Federal police. All books and records dealing with the sale and ownership of alcoholic beverages shall be open for inspection purposes by the Commission.

Sec. 9–1–2. *Transferability.* No license issued pursuant to this Ordinance shall be transferable; provided, however, upon death of an individual licensee, the personal representative of the estate may operate under a valid license for sixty (60) days after the licensee's death, so long as said personal representative shall apply to the Tribe for a new license within said sixty (60) day period.

Sec. 9–1–3. *Health Warnings.*

(A) The Health Department of the Cheyenne River Sioux Tribe shall create signs warning of the dangers faced by those who consume alcohol, including warning the dangers to pregnant women, the dangers of drunk driving and such other warnings as the Health Department shall deem necessary. The

language in such signs shall be referred to the Indian Health Service for comments and shall be approved by a licensed physician prior to issuance. The Revenue Department shall issue copies of such signs to retail dealers. Each retail dealer shall display said signs in a conspicuous manner in close proximity to the area where alcohol is dispensed or sold.

(B) The Health Department of the Cheyenne River Sioux Tribe shall create pamphlets warning pregnant persons of the dangers of alcohol use during pregnancy. The language in such pamphlets shall be referred to the Indian Health Service for comments and shall be approved by a licensed physician prior to issuance. The Revenue Department shall issue copies of such pamphlets to all retail dealers. Each retail dealer shall offer one of these pamphlets to each pregnant person who is refused service pursuant to Sec. 4–1–5.

Sec. 9–1–4. *Server Training.* Every person who serves alcoholic beverages on the premises of an on-sale license shall attend 8 hours of training in a server training program approved by the Alcoholic Beverage Control Commission on the latter of his or her 60th day of employment or within 60 days after the effective date of this Ordinance.

Sec. 9–1–5. *Age to Sell Alcoholic Beverages.*

(A) No package (off-sale) licensee who holds a valid liquor license may permit any person under the age of twenty-one (21) years to sell alcoholic beverages on the licensed premises, except as set forth in subsection (B) of this section.

(B) A package (off-sale) licensee who holds a valid liquor license may permit a person between the age of eighteen (18) years and twenty-one (21) years to sell malt beverages on the licensed premises if:

(1) Sales of malt beverages constitute less than fifty percent (50%) of the gross receipt of the business, as determined and certified by the Commission; and

(2) An employee over the age of twenty-one (21) years is on the licensed premises when the malt beverage is sold.

(C) No on-sale licensee may permit any person under the age of twenty-one (21) years to sell, serve, or dispense alcoholic beverages on the licensed premises, except as set forth in subsection (D) of this section.

(D) An on-sale licensee may permit persons between the age of eighteen (18) years and twenty-one (21) years to sell, serve, or dispense alcoholic beverages if:

(1) Sales of food and non-alcoholic beverages constitute more than 50% of the gross receipts of the business, as

determined and certified by the Commission; and

(2) An employee over the age of twenty-one (21) is on the licensed premises when the alcoholic beverage is sold, served or dispensed.

(E) "Sell, serve or dispense" under this section means to take orders for alcoholic beverages and to deliver alcoholic beverages to customers as a normal adjunct of waiting tables. The term does not include bartending or mixing alcoholic drinks. Persons under the age of twenty-one (21) years are not permitted to tend bar or mix drinks.

(F) Violation of this section may result in a fine not to exceed Five Hundred Dollars (\$500) per violation.

Sec. 9–1–6. *Tribal Sovereign Immunity.* No provision of this Ordinance shall be construed to permit the recovery of money damages against the Tribe. No provision of this Ordinance shall be construed to waive the sovereign immunity of the Tribe, except as expressly provided in Sections 3–1–11, 6–1–5, 7–1–3.

### Section 10. Severability

Sec. 10–1–1. *Severability.* If for any reason, or circumstances, any provision(s) or section(s) of this Ordinance are held invalid by the appropriate court of jurisdiction, the remainder of this Ordinance and other provisions or sections shall not be affected in the application of this Ordinance or to any person covered by this Ordinance.

### Section 11. Effective Date of Ordinance No. 48 as Amended

Sec. 11–1–1. *Continued Operation Under Existing License.* Ordinance No. 48 is hereby amended and said Ordinance is effective as amended thirty (30) days after its publication in the **Federal Register**. Any licensee operating under an existing tribal license may continue to operate there under until such license expires provided that the licensee complies with all the provisions contained herein, including the provisions relating to hours of operation, prohibited acts and taxation.

### Certification

I, the undersigned, as Secretary of the Cheyenne River Sioux Tribal Council, 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 and convened and held this 10th day of March, 2023 Regular Session; in Eagle Butte, South Dakota; and that the foregoing Ordinance No. 48, the Alcoholic Beverages Control Law

of the Cheyenne River Sioux Tribe of South Dakota, as Amended, was duly adopted at such meeting by a roll call vote of 10 yes, 0 no, 0 abstaining, 2 absent and 3 vacant.

[FR Doc. 2023–10035 Filed 5–10–23; 8:45 am]

BILLING CODE 4337–15–P

## DEPARTMENT OF THE INTERIOR

[233D0102DM, DS6CS00000,  
DLSN00000.000000, DX.6CS25; OMB  
Control Number 1090–0012]

### Agency Information Collection Activities; Improving Customer Experience (OMB Circular A–11, Section 280 Implementation)

**AGENCY:** Department of the Interior.

**ACTION:** Notice of information collection;  
request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, we, the Department of the Interior are proposing to renew an information collection.

**DATES:** Interested persons are invited to submit comments on or before July 10, 2023.

**ADDRESSES:** Send your comments on this information collection request (ICR) by mail to Jeffrey Parrillo, Departmental Information Collection Clearance Officer, 1849 C Street NW, Washington, DC 20240; or by email to [DOI-PRA@ios.doi.gov](mailto:DOI-PRA@ios.doi.gov). Please reference OMB Control Number 1090–0012 in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact Jeffrey Parrillo, Departmental Information Collection Clearance Officer, 1849 C Street NW, Washington, DC 20240; or by email to [DOI-PRA@ios.doi.gov](mailto:DOI-PRA@ios.doi.gov), or by telephone at 202–208–7072. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

- (1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;
- (2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;
- (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

- (4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Abstract:** A modern, streamlined and responsive customer experience means: raising government-wide customer experience to the average of the private sector service industry; developing indicators for high-impact Federal programs to monitor progress towards excellent customer experience and mature digital services; and providing the structure (including increasing transparency) and resources to ensure customer experience is a focal point for agency leadership.

This information collection activity provides a means to garner customer and stakeholder feedback in an efficient,

timely manner in accordance with the Administration's commitment to improving customer service delivery as discussed in Section 280 of OMB Circular A–11 at <https://www.whitehouse.gov/wp-content/uploads/2018/06/s280.pdf>.

As discussed in OMB guidance, agencies should identify their highest-impact customer journeys (using customer volume, annual program cost, and/or knowledge of customer priority as weighting factors) and select touchpoints/transactions within those journeys to collect feedback. These results will be used to improve the delivery of Federal services and programs. It will also provide government-wide data on customer experience that can be displayed on [www.performance.gov](http://www.performance.gov) to help build transparency and accountability of Federal programs to the customers they serve. As a general matter, these information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

The Department of the Interior will only submit collections if they meet the following criteria.

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are non-controversial and do not raise issues of concern to other Federal agencies;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- Information gathered is intended to be used for general service improvement and program management purposes.
- Upon agreement between OMB and the agency, all or a subset of information may be released as part of A–11, Section 280 requirements on [performance.gov](http://performance.gov). Summaries of customer research and user testing activities may be included in public-facing customer journey maps.
- Additional release of data must be done in coordination with OMB.

These collections will allow for ongoing, collaborative and actionable communications between the Agency, its customers and stakeholders, and OMB as it monitors agency compliance