

JULY 2009 CROW TRIBAL LEGISLATURE

BILL NO. CLB09-04

INTRODUCED BY CEDRIC R. BLACK EAGLE, CHAIRMAN

CROW TRIBAL EXECUTIVE BRANCH

**A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING A CROW TRIBAL LEASE
ORDINANCE"**

WHEREAS, the Apsaalooke Nation is a federally recognized Indian Nation residing on the Crow Reservation and possessing inherent sovereign governmental powers; and

WHEREAS, it is the responsibility of any government to preserve and protect the welfare and safety of its natural resources and land; and

WHEREAS, the Legislative Branch of the Crow Tribe is authorized to adopt resolutions, regulations and guidelines for the governance of the Crow Tribe of Indians, pursuant to Article V Section 2(a) of the Constitution and Bylaws of the Crow Tribe of Indians; and

WHEREAS, the Chairman of the Executive Branch has authority and responsibility pursuant to the "enumerated powers" in Article IV, Section 3(f) of the Constitution and Bylaws of the Crow Tribe of Indians to "negotiate and approve or prevent any sale, disposition, lease or encumbrance of Tribal lands, interests in lands or other Tribal assets, including buffalo, minerals, gas and oil with final approval granted by the Legislative Branch;" and

WHEREAS, the Legislative Branch of the Crow Tribe has authority and responsibility pursuant to its "powers and duties" in Article V, Section 2(d) of the Constitution "To grant final approval or disapproval of items negotiated by the Executive Branch of Government pertinent to the sale, disposition, lease or encumbrance of Tribal lands, interests in lands or mineral assets provided that a process for such approval or disapproval may be established by legislation;" and

WHEREAS, the Legislative Branch of the Crow Tribe has the power and duty pursuant to Article V, Section 2(a) of the Constitution to promulgate and adopt laws, resolutions, ordinances, codes, regulations, and guidelines in accordance with the Constitution and federal laws for the governance of the Crow Tribe of Indians and for providing for the manner of the sale, disposition, lease or encumbrance of tribal lands, interests in land, or other assets of the Crow Tribe;" and

WHEREAS, the Crow Tribal Government desires to manage the Tribally owned lands in a manner that best serves the interests of the Tribe as a whole and that promotes the development and success of Tribal member agricultural producers;

WHEREAS, proceeds from the leasing of tribal lands are distributed to all Crow Tribal members via per capita payments;

WHEREAS, the Apsaalooke Nation as a whole, as well as individual Crow landowners have financially suffered from the long standing practice of Tribal members obtaining Tribal and individually owned lands for the purpose of "subleasing" or "fronting" such lands to third parties, causing financial detriment to the Tribe and to individual landowners; and

WHEREAS, the practice of sub-leasing has promoted and protected the financial interests of the non-Crow Ranchers and Farmers who have long monopolized the agricultural industry on the Crow Reservation and who have gained significant fee acreage within the exterior boundaries of the Crow Reservation through the financial benefits of sub-leasing; and

WHEREAS, the Legislative Branch and the Executive Branch of the Crow Tribe recognize that there are numerous, extensive, and serious trespasses on Crow Tribal lands within the exterior boundaries of the Crow Reservation, which negatively affects the value of agricultural leases and the viability of the land; and

WHEREAS, in order for the government of the Apsaalooke Nation to be able to serve its constituents by obtaining full and fair value for agricultural leases on Crow Tribal lands, the practice of sub-leasing, assigning, or fronting must be prohibited;

THEREFORE BE IT ENACTED that the attached Crow Agricultural Lease Ordinance, is hereby adopted by the Crow Tribal Legislature; and

That all other Ordinances, Resolutions, or other laws that conflict with the provisions therein are hereby rescinded and nullified; and

That the attached Ordinance be codified in the appropriate Title of the Crow Tribal Code.

CERTIFICATION

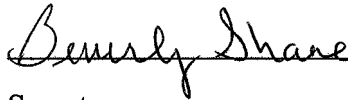
I hereby certify that this Bill was duly approved by the Crow Tribal Legislature with a vote of 15 in favor, 0 against, 0 abstained and that a quorum was present on this 15TH day of July, 2009.



Speaker of the House

Crow Tribal Legislature

ATTEST:



Secretary

Crow Tribal Legislature



EXECUTIVE ACTION

I hereby X approve _____ veto this Bill pursuant to the authority vested in the Chairman of the Crow Tribe by Article V, Section 8 of the Constitution and Bylaws of the Crow Tribe of Indians on this 11th day of Aug., 2009.



Cedric Black Eagle

Chairman of the Crow Tribe

An Act Adopting a Crow Tribal Lease Ordinance

Bill or Resolution Number: CLB09-04 Introduced by: Executive Branch Date of Vote:

7/115/2009

<u>Representative:</u>	<u>Yes</u>	<u>No</u>	<u>Abstained</u>
B. House	<u>X</u>	<u> </u>	<u> </u>
R. Fighter, Sr.	<u> </u>	<u> </u>	<u> </u>
C. J. Stewart	<u>X</u>	<u> </u>	<u> </u>
L. Hogan, Jr.	<u>X</u>	<u> </u>	<u> </u>
S. Fitzpatrick, Jr.	<u>X</u>	<u> </u>	<u> </u>
O. Half, Jr.	<u>X</u>	<u> </u>	<u> </u>
W. Plainfeather	<u>X</u>	<u> </u>	<u> </u>
R. Old Crow, Sr.	<u> </u>	<u> </u>	<u> </u>
P. Alden, Jr.	<u>X</u>	<u> </u>	<u> </u>
M. Not Afraid	<u>X</u>	<u> </u>	<u> </u>
V. Crooked Arm	<u>X</u>	<u> </u>	<u> </u>
L. Plain Bull, Sr.	<u>X</u>	<u> </u>	<u> </u>
C. Goes Ahead	<u> </u>	<u> </u>	<u> </u>
O. Costa	<u>X</u>	<u> </u>	<u> </u>
J. Stone, Sr.	<u>X</u>	<u> </u>	<u> </u>
D. Wilson	<u>X</u>	<u> </u>	<u> </u>
B. Shane	<u>X</u>	<u> </u>	<u> </u>
Secretary of the House			
M. Covers Up, Sr.	<u>X</u>	<u> </u>	<u> </u>
Speaker of the House			
Totals:	<u>15</u>	<u>0</u>	<u>0</u>

Result of Vote:

<u>Manuel Covers Up, Sr.</u>	<u>Passed</u>	<u>Not Passed</u>	<u>Tabled</u>	<u>Veto-Override</u>
Speaker of the House				
		<u>Beverly M. Shane</u>		
		Secretary of the House		

CROW LAND LEASING ORDINANCE

SECTION I: GENERAL PROVISIONS

- (1) Authority. This Crow Land Lease Ordinance is authorized by and adopted pursuant to Article V of the Constitution and Bylaws of the Crow Tribe of Indians, Crow Indian Reservation, adopted July 14, 2001.
- (2) Purpose. The intent of this Land Lease Ordinance is to establish procedures for fair, equitable, and predictable land leasing procedures and policies. This Land Lease Ordinance shall govern all agricultural leases for Crow Tribal Lands. The regulations and procedures contained in this Ordinance shall be administered by the Executive Branch of the Crow Tribe to accomplish this purpose, provided that no informality in the execution of the following provisions of this Ordinance shall invalidate any lease of tribal lands;
- (3) Severability. If the Crow Tribal Court finds any provision of this Ordinance to be invalid or illegal under applicable tribal law, such provision shall be severed from this Ordinance. The remainder of this Ordinance shall not be affected and will remain in full force and effect.
- (4) Other and Prior Land Lease Ordinances. All other prior ordinances and resolutions governing the lease, encumbrance, and/or disposition of Crow Tribal lands are hereby repealed and rescinded.
- (5) All lease offices dealing with Tribal land leases shall implement these regulations and shall make recommendations to the Chairman of the Executive Branch regarding the award of leases of Tribal lands. The Chairman of the Executive Branch shall execute all leases of Tribal lands in conformity with the applicable tribal and federal laws. Upon final approval, all leases shall be submitted to the Bureau of Indian Affairs for proper recording.
- (6) These regulations pertain to all lands under the jurisdiction of the Crow Tribe of Indians including Tribally owned trust lands and Tribally owned fee lands.
- (7) These regulations, whether codified or not, may be enforced in Crow Tribal Court, after all administrative review options have been exhausted.
- (8) Any party availing him/herself of a leasehold to Crow Tribal Lands shall consent through lease contract to jurisdiction in Crow Tribal Court of any dispute arising from the lease of said lands. Any party attempting to sublease or assign or accept assignment of a lease for use of Crow Tribal lands shall be subject to the jurisdiction of the Crow Tribal Court.
- (9) No agricultural or grazing lease for tribal lands shall encumber said lands for a term exceeding five (5) years without specific and individual approval by the Crow Land Use Board. Exceptions to this rule shall be granted to lessees who propose to make substantial improvements to the land leased.

(10) Any person or entity leasing tribal lands shall comply with the provisions of the Crow Workforce Protection Act for the portion of the operation or business conducted on Crow Tribal Lands.

(11) The provisions herein shall become effective immediately upon passage and signature of the Crow Tribal Chairman.

(12) All non-Crow Tribal members who lease trust property shall allow ingress and egress to all enrolled Crow Tribal members to all trust property within the exterior boundaries of the Crow Reservation. When the non-member violates these policies his/her lease will be cancelled within 30 days of the infraction.

(13) Definitions

- (a) "Crow Tribal Lands" means all Tribal lands held in trust or restricted status by the United States for the benefit of the Crow Tribe or individual Indian owners located within the exterior boundaries of the Crow Indian Reservation, including the "ceded area", and all lands owned in fee or unrestricted status by the Crow Tribe of Indians.
- (b) "Assignment" or "Sublease" mean any form of assignment, transfer, subletting, or other conveyance of any of the lease rights to any person or entity other than the original Lessee named in the lease, whether by agreement of the Lessee or by operation of law, including but not limited to the dissolution of marriage or probate or inheritance laws of any other jurisdiction.
- (c) "Agricultural purposes" or "agricultural lease" means a lease of land for farming and/or grazing purposes including all those trust leases covered by 25 C.F.R. Part 162, Subpart B (as in effect on the date of this Act).
- (d) "Sublessor" and "Assignor" mean any individual, including but not limited to a member of the Crow Tribe, who obtains a lease to lands owned by the Crow Tribe or individual Crow Tribal members, who sub-leases, assigns, conveys their interest, or otherwise utilizes the lands leased to substantially benefit a third party for the financial benefit of the sublessor and/or third party.
- (e) "Sublessee" and "Assignee" mean any individual who acquires an interest in or right to gain substantial benefit from land subject to a lease originally held by another individual, including but not limited to a Crow Tribal member, for the purpose of gaining substantial benefit from the use of the land subject to the original lease and the sublease.

- (f) "Substantial benefit" means that a majority, or more than fifty percent, of the benefit – whether financial, practical, or strategic – from a parcel of land is directed to one particular individual, party, corporation, or entity.

SECTION II: CROW LAND USE BOARD

- (1) There shall be established a Crow Land Use Board, consisting of seven (7) members. There shall be one Board member from each of the six Legislative districts of the Crow Reservation. These members shall be appointed by the Chairman. Prior to the appointment, the Chairman shall concur with the three Legislative members from each District when selecting the Board member from that District. Board members selected shall be confirmed by majority vote of a quorum of the Crow Legislative Branch. The first confirmation hearing for appointed board members shall be held during the October Legislative Session 2009. The confirmation hearing for subsequent appointed board members shall be held within 20 days of appointment. The Chairman shall appoint new members to vacant positions within 30 days of the vacancy, confirmation of newly appointed members shall be held during the next regular Legislative session. The Crow Tribal Chairman, or an individual designated by him/her, shall serve as the seventh member of the Crow Land Use Board and shall chair Board meetings, unless such authority is delegated to another individual.
- (2) Members of the Crow Land Use Board must, at a minimum, possess a high school diploma or GED. No member of the Crow Land Use Board may currently be employed full-time on a year-round basis by State or Federal Government. Shall be an enrolled Crow Tribal member. Members should be familiar with Crow Land laws, federal provisions governing the use of tribal and allotted lands, and history of the Crow Tribe. Members should possess knowledge and experience regarding sound agricultural practices.
- (3) Members of the Crow Land Use Board shall serve four-year terms. To provide for staggered membership, the first members of the Board selected by the Arrow Creek, Black Lodge, and Wyola districts shall serve two year terms, and then a new selection or reappointment shall be issued.
- (4) In any decision or dispute to be resolved by the Crow Land Use Board, the Board member shall recuse her/himself if a conflict of interest arises. A conflict of interest is presumed to exist if the issue to be resolved involves an immediate family member, or an extended family member related by first degree (i.e., aunt, uncle, first cousin, grandparent, niece, or nephew) or closer.
- (5) No individual may serve on the Crow Land Use Board for more than two (2) consecutive four-year terms. There is no limit on the total number of terms any individual may serve. The

first partial two-year term served by Board members from the Arrow Creek, Black Lodge, and Wyola Districts shall not count against the Board member's two four-year term limit.

(6) At any meeting of the Crow Land Use Board, the presence of at least four members shall be required to constitute a quorum.

(7) Crow Land Use Board members shall be compensated for their services at a reasonable rate to be set on an annual basis by the Chairman of the Executive Branch, and shall also receive reimbursement for mileage if appropriate.

(8) Decisions made by the Crow Land Use Board shall be reviewable by the Crow Tribal Court, upon petition by an aggrieved party, only as to whether the Board decision appealed was arbitrary, capricious, or contrary to applicable law, and shall conform to general requirements for administrative review or filing civil litigation in Crow Tribal Court.

(9) All members of the Crow Land Use Board shall, upon beginning their terms, take an oath to serve the Crow Nation, and to work to ensure the ethical and fair administration of the lands of the Crow Nation, for the good of all Apsaalooke people.

(10) Removal of Crow Land Board Members

- (a) A member of the Crow Land Use Board may be removed from the Board for failing to fulfill his/her duties upon a petition signed by no fewer than four (4) other Land Use Board members and an affirmative vote of a majority of the members of the Legislative Branch of the Crow Tribe to remove the Board member named in the petition. A quorum of the Legislative Branch Members must be present to vote to affirm or deny the petition.
- (b) A petition for removal of a Crow Land Board member must state clearly and in detail the reasons for the removal.
- (c) Reasons for removal shall include:
 - (i) Failing to recuse him/herself from Board decisions involving an immediate or extended family member as required in Section II(4) herein;
 - (ii) Excessive absenteeism, including missing three or more meetings during a one-year period without a valid excuse; and
 - (iii) Failing to ensure the ethical and fair administration of lands of the Crow Tribe.
 - (iv) Receiving or soliciting bribes or kickbacks, or permitting other forms of undue influence and/or corruption on decisions regarding the disposition and/or management of Crow Tribal lands.

- (v) Delinquent or unpaid O&M fees; delinquent lease payments on tribal or allotted land leases.
 - (vi) Abuse of alcohol and/or illegal drugs, including but not limited to conviction for drug and alcohol-related criminal offenses.
 - (d) Removal of a Crow Land Use Board member must be initiated by a petition to the Speaker of the Legislative Branch signed by no fewer than four (4) Crow Land Use Board members for the removal of a fellow member.
 - (e) Upon submission of a petition to the Speaker of the Legislative Branch, written notice shall be provided to the member subject to the Petition, as well as to the Chairman of the Executive Branch by the petitioning Crow Land Board members. This notice may be delivered in person or by mail.
 - (f) Upon receipt of a signed petition, the Speaker of the Legislative Branch shall submit the petition to the next regularly scheduled session of the entire Legislative Branch. The Legislative Branch must affirm the removal of a Crow Land Use Board member by a majority vote of the entire number of the members of the Legislative Branch.
 - (g) The Crow Land Use Board Member subject to the removal petition shall have the right and shall be given an opportunity to make a statement to rebut the content of the petition before the Legislative Branch and may present any relevant evidence, at the discretion of the Speaker of the House, on his or her behalf before the Legislative Branch votes to affirm or deny the petition for the Board member's removal.
 - (h) Upon affirmation by the Crow Tribal Legislative Branch of a petition for removal, the Board member subject to the petition shall be removed from the Board, and the process for filling a vacancy on the Board shall be initiated.
- (11) Nothing herein shall prevent any Crow Land Use Board member from resigning his/her position. Vacancies due to voluntary resignation shall be filled through the same process for regular appointments.

SECTION III: CERTIFICATION OF OPERATORS

- (1) Certified Crow Operator means a Crow Tribal Member who is engaged in the business of agriculture, whether through farming or ranching activity. In order to become a Certified Crow Operator, an individual must document his/her registered brand(s), the number of livestock owned by the individual, and the type of farm equipment and machinery used in her/his operation.

- (2) In case of Ranchers and Farmers who have not previously leased Crow Tribal or allotted lands, the Crow Land Management Office shall require a business plan to be submitted by the applicant. The Crow Land Management Office shall review submitted materials and determine whether the individual applicant qualifies for status as a Certified Crow Operator.
- (3) In the event that the individual submits bids to lease lands exceeding the demands of his/her stock or farming operation, a business plan shall be required, as well as documentation of any pending loan applications to support an extension of her/his farming or ranching operation.
- (4) The Crow Land Management Office may deny any application if the applicant does not supply sufficient information documenting his/her stock or farming operation.
- (5) The Crow Land Use Board shall generate forms and establish criteria to be used for application and approval of Certified Crow Operators, and for awarding of leases, setting and requiring bonds, in conformity with the requirements and preferences in this Ordinance.
- (6) Any individual whose application for Certified Crow Operator status is denied may appeal to the Crow Land Use Board. The Board's decision may be appealed in Crow Tribal Court.

SECTION IV: LEASE PRIORITY AND PREFERENCE

- (1) First preference for the awarding of leases for Crow tribal lands shall be an enrolled Crow Tribal member who is a Certified Crow Operator who owns land or leases land that borders the lease in question and will use said land in his or her ranching or farming operation exclusively. Homesite leases shall not be used to qualify any individual for this preference.
- (2) Second preference for the awarding of leases for Crow tribal lands shall be an enrolled Crow Tribal member who is a Certified Crow Operator who owns land or leases land that is nearest to said lands within a five-mile radius of the lease in question and will use said land in his or her ranching or farming operation exclusively. Homesite leases shall not be used to qualify any individual for this preference this preference.
- (3) Third preference shall be an enrolled Crow Tribal member who is a Certified Crow Operator who can exchange the lease in question in order to consolidate his or her own ranching operation, provided that the lessee can provide proof to the Crow Tribe and to the Bureau of Indian Affairs that the true purpose of the lease in question is to benefit his or her farming or ranching operation exclusively. Homesite leases shall not be used to qualify any individual for this preference.

(4) Fourth preference shall be an enrolled Crow Tribal member who is a Certified Crow Operator who owns 51% or more of the livestock or owns 51% or more of the farm income on the grazing or farming lease to be awarded.

(5) The Crow Land Management Office shall:

- (a) Determine who is entitled to the four preferences;
- (b) Accept the high bid if two or more qualify under the same preference;
- (c) Allow a higher preference bidder who has been outbid by a bidder with a lower preference to meet the higher bid, and shall award the lease to the higher preference bidder if s/he meets the high bid among all Certified Crow Operators.
- (d) If two or more bidders have a tie bid and are entitled to the same preference, the Crow Land Management Office will ask for a rebid between those bidders involved in the tie bid.
- (e) The Crow Land Management Office will award the lease to the proper bidder.
- (f) Upon awarding of a lease to a successful bidder according to the four preferences, the operator will submit a plan of operation for the use of the lease in question containing: (1) statement of the breed and number of livestock utilizing the lease in question if applicable; (2) statement detailing the farming procedure to be implemented if applicable; (3) statement of all exchanges that will be made, along with the agreements in writing; (4) statement that the operator for a farm lease will fill out any applicable reports or statements at the Agricultural Stabilization and Conservation Office in their respective county; (5) statement that if the operator of a farm lease plans on participating in the Deficiency Payment Program, the Operator will submit the contract under which s/he plans to participate.

(6) The Crow Land Use Board shall establish and approve criteria, forms, and any necessary procedures pursuant to this Section.

(7) Certified Crow Operators and non-Crow bidders for leases must submit information including: registered brands, number of livestock, type of farm equipment and machinery. This information will be utilized to determine whether an interested bidder is actually engaged in the operation of an agricultural business. In the case of new Ranchers and Farmers interested in leasing Crow Reservation lands, a business plan of the new operator must also be submitted.

(8) Crow Tribal Member Rancher and Farmers who are Certified Crow Operators shall be granted a preference in leasing lands over all non-Crow bidders. This preference shall be accommodated by an initial advertisement of available Tribal and allotted lands for Crow Tribal

members bidding only. Bids between Crow Tribal members shall be awarded based upon the preference s/he is entitled to, and then based upon the highest bid. **SECTION V: BIDDING PROCESS**

- (1) All Crow Tribal lands, except Tribal fee lands, will be advertised by the Bureau of Indian Affairs (BIA) with the minimum bid rates per acre for grazing lands, for dry farm lands, and for irrigated farm lands clearly and prominently stated in an initial advertisement, including notice that tribal member preference for Certified Crow Operators shall govern lease allocation priorities.
- (2) All operators submitting bids must disclose all Tribal and allotted land leases currently held by the operator. If the operator is a first-time bidder, this should be stated, along with a statement that the operator does not currently hold any leases on Tribal or allotted lands.
- (3) The information provided in the lease proposal will be used to calculate the amount of land a Rancher or Farmer will require for his/her agricultural operation. Lessors are restricted from obtaining lands in excess of the amount of land necessary for their agricultural use. A minimum acreage requirement for agricultural operation will be based the conditions of the land.
- (4) After leases of Tribal and allotted lands are awarded to Certified Crow Operators who are Crow Tribal ranchers and farmers, the BIA shall advertise leases for remaining Tribal lands to all bidders.
- (5) The Bureau of Indian Affairs shall readvertise leases for Tribal lands if necessary after leases have been awarded to Certified Crow Operators. Re-advertisement of the remaining lands, if necessary, shall comply with the above established minimum bids, and Certified Crow Operators shall retain any preference to which they are entitled throughout the entire bidding process.
- (6) A bond shall be required to secure leases awarded. Certified Crow Operators shall be exempt from the bond requirement if not delinquent in lease payments for five (5) consecutive years prior to the bidding cycle. First-time bidders shall be exempted from the bond requirement.
- (7) Any failure to comply with sound agriculture and conservation practices resulting in damage to future productive use of that land shall result in forfeiture of any bond posted by the lessees. Future lessees may be awarded a portion of bonds forfeited by prior lessess to compensate for devaluation of Land by Crow Land Use Board.
- (8) Non-Crows shall be awarded leases based upon the high bid only.
- (9) Allegations of abuse of the bidding for the purpose of artificially inflating bid rates and high bid by any Certified Crow Operators entitled to any of the preferences listed above should be brought to the immediate attention of the Crow Land Management Office and the Crow Land

Use Board. A finding by the Crow Land Use Board that a Certified Crow Operator has submitted bids for leases in bad faith, as a front, or to artificially inflate the high bid and adversely impact another Certified Crow Operator, shall result in the immediate cancellation of all bids submitted by the Certified Crow Operator submitting bad faith bids, and forfeiture of any deposits or bonds posted by that individual.

(10) All disputes regarding the award of leases for Crow Tribal Lands shall be heard by the Crow Land Use Board, whose decision may be appealed to and reviewed by the Crow Tribal Court only for the purpose of determining whether the Board decision appealed was arbitrary, capricious, or contrary to applicable law.

SECTION VI: CONSERVATION AND MAINTENANCE OF LEASED LANDS

(1) Any party granted a lease of tribal lands shall be responsible for making any necessary improvements on said lands, including the construction and maintenance of necessary fencelines to prevent trespass of livestock from or onto adjacent lands consistent with the requirements for fencing found at §VI(8) herein.

(2) No person leasing Tribal land may encumber the land by an easement for any purpose. Necessary easements or other encumbrances must be secured from the Crow Tribe and must be approved by the Legislative Branch of the Crow Tribe as required under the 2001 Constitution of the Crow Tribe of Indians and any other applicable provision of Crow Tribal Law.

(3) Crow Tribal members may submit bids for the lease of Tribal lands for business, conservation, or recreation purposes. An explanation of the purpose of the lease must be attached to the bid, and must include a business plan and documentation of any pending loan applications or other information showing financial support and viability of said business, conservation, or recreational purpose. Upon verification of the purpose of the lease, a lease may be awarded for a business, recreation, or conservation lease to the Crow Tribal member if he/she meets the highest bid and if the Crow Land Use Board approves the proposed use.

(4) Parties leasing Crow Tribal lands agree that tribal members may retain access to those lands for legitimate and lawful purposes, including but not limited to the exercise of tribal hunting and fishing rights, as well as other cultural uses.

(5) The Crow Land Use Board shall develop policies and procedures to protect Crow Tribal Lands from overgrazing and other destructive practices. This shall include individual determinations of appropriate number of stock for the various and diverse lands held by the Crow Tribe.

(6) Any cattle brought onto leased tribal lands of the Crow Reservation after the effective date of these regulations shall be subject to the requirement for brand inspection and

certification that livestock have passed a health inspection prior to being brought onto the Crow Reservation. Such certification shall be supplied on demand to the appropriate tribal or federal authority. Documentation of compliance with this provision shall be filed with the Crow Land Resources Department.

(7) Only the Crow Tribe and Crow Tribal members shall have the right to run domesticated or wild buffalo on Crow Tribal Lands. Any tribal member who wants to raise wild or domesticated buffalo on tribal lands must submit a plan for the maintenance, fencing and management of the land to ensure that trespass and overgrazing of tribal lands do not result from the use of the land for running domesticated buffalo. This plan must be approved prior to awarding of lease for tribal lands for the purpose of running buffalo.

(8) Fencing Requirements and Responsibilities on Crow Tribal lands

(a) NOTICE OF CONSTRUCTION

(i) If one of two adjoining landowners shall desire to have a fence constructed between the premises of the two landowners, then he shall give 10 days written notice of his intentions to the other landowners which notice shall set forth in detail the plans for construction and maintenance of said fence in compliance with the provisions of this ordinance.

(ii) Upon receipt of said notice the second Landowner shall have 60 days in which to complete his share of construction and maintenance, or to begin good faith compliance with the request for construction and maintenance, all pursuant to the provisions of this ordinance.

(b) DUTY OF NON-INDIAN

(i) If land (deeded or trust) owned or leased by a non-Indian adjoins Indian-owned land not leased to a non-Indian, then the non-Indian shall upon request by the Indian landowner be responsible for the construction and maintenance of the fence between the two properties and shall bear the entire cost of said fence and may not pass said cost onto any Indian landowner.

(ii) If land (deeded or trust) owned or leased by a non-Indian adjoins Indian-owned land leased to a non-Indian, then upon request by either non-Indian, each shall be responsible for construction and maintenance of one-half of the fence between said lands and each shall pay the cost of half of the fence and may not pass said cost onto any Indian-landowner.

(c) DUTY OF INDIAN

If Indian-owned land adjoins other Indian owned land, then upon request by either Indian owner, or the Indian lessee thereon, if leased, each owner or lessee shall be responsible for construction and maintenance of one-half of the fence between said lands and each shall pay the cost of half of the fence.

(d) RULES FOR SHARING RESPONSIBILITY FOR FENCING

If the construction and maintenance of fence, and costs therefore are to be mutually shared pursuant of the provisions of this ordinance, then each party shall be responsible for the right hand one-half of the fence as he stands at the midpoint of the line between the properties to be fenced and faces the property of the second party.

(e) OWNERSHIP OF FENCE

Any fence built or existing between adjoining lands owned by different parties shall be decreed to be owned jointly by the adjoining landowners regardless of contribution to the costs of construction and maintenance.

(f) LOCATION OF FENCE

All fences built on lands adjoining Indian lands as a boundary fence shall be built on the property line. Any fence built beyond the line onto Indian land shall be removed to the property line upon demand by the Indian owner or Indian lessee. Any fence built short of the property line on the land owned by the non-Indian shall constitute a waiver by the non-Indian of any claim for trespass or damage by any cattle grazing upon the land between the fence and the property line and shall not defeat joint ownership of the fence to Section V above.

SECTION VII: PROHIBITION OF ASSIGNMENT OR SUBLEASING OF TRIBAL LANDS

(1) **Declaration of Policy.** It shall be the general and hereby declared policy of the Apsaalooke Nation that agricultural leases of Crow Tribal lands held in trust or restricted status by the United States for the benefit of the Apsaalooke Nation or individual Indian owners and

Tribal fee lands shall not be subject to assignment, sublease, or transfer nor be transferred in any manner or in any way by the Lessee to any other party, person, or entity.

(2) All persons, Crow Tribal members and non-Crow individuals, who lease lands on the Crow Reservation are hereby prohibited from sub-leasing or otherwise assigning their lease on such lands to a third party for any purpose. Leasing lands for the primary purpose of running livestock belonging to a person or entity other than the holder of the lease is prohibited.

(3) Any person found guilty of misuse or illegal use of tribal funds will be ineligible to submit future bids for lease of Crow Tribal lands for a period of (10) years.

- a. Cancellation of the lease subject to the sub-lease,
- b. A fine in an amount at least equivalent to the profit made from the sublease,
- c. Confiscation of any livestock owned by the parties involved in violation of these regulations.
- d. Criminal prosecution of the maker of the sub-lease in accordance with the Crow Law and Order Code.
- e. Ineligibility of the individual sublessor, assignor, sublessee, or assignee, to submit future bids for the lease of Crow Tribal Lands for a period of ten (10) years.

(4) All agricultural leases for Crow Tribal Lands entered into, issued or approved by the Bureau of Indian Affairs after the effective date of this Act shall include the following provision in large bold type with all capital letters:

CROW TRIBAL LAW PROVIDES THAT THIS LEASE MAY NOT BE ASSIGNED, TRANSFERRED OR SUBLEASED TO ANY OTHER PARTY, PERSON OR ENTITY IN ANY MANNER FOR ANY REASON. VIOLATIONS MAY RESULT IN CRIMINAL PROSECUTION AND/OR CIVIL SANCTIONS, FINES, AND/OR FEES.

(5) This Act does not prohibit the assignment of agricultural leases on Crow Trust lands so long as the assignment in question was previously valid and lawful ("existing leases"); *provided*, however, that any person or entity that conveys, transfers, takes, or receives an assignment of such an existing lease after the effective date of this Act shall not thereafter be eligible to lease the Crow Tribal Land that was the subject of the assignment. This ineligibility shall also apply to the immediate family of the Lessee and to all affiliated entities controlled by the Lessee or his immediate family.

- (6) No lease or leases for agricultural purposes of Crow Tribal lands entered into after the effective date of this Ordinance shall be assigned in whole or in part at any time to any other party, person, or entity in any manner or for any reason.
- (7) The restrictions in this Section shall not apply to any assignments or transfers to the Crow Tribe.

SECTION VIII: TRESPASS

- (1) Trespass is any unauthorized occupancy, use of, or action on Crow Tribal lands.
- (2) The Crow Tribe may exercise concurrent jurisdiction with the Bureau of Indian Affairs to prosecute trespasses on Crow Tribal agricultural lands.
- (3) The Crow Land Resources Department staff shall:
 - a. Investigate accidental, willful, and/or incidental trespass on Crow Tribal lands;
 - b. Respond to alleged trespass in a prompt, efficient manner;
 - c. Assess trespass penalties for the value of products used or removed, cost of damage to any Crow Tribal agricultural lands, and enforcement costs incurred as a consequence of the trespass; and
 - d. Ensure that damage to Crow Tribal agricultural lands resulting from trespass is rehabilitated and stabilized at the expense of the trespasser.
- (4) The Crow Tribe may enforce any provision of this Section solely or in cooperation with the Bureau of Indian Affairs.
- (5) If Crow Land Resources Department staff has reason to believe that a trespass on Crow Tribal agricultural land has occurred, written notice shall be provided to the alleged trespasser, the possessor of trespass property, any known lien holder, and beneficial Indian landowner, as appropriate, within forty eight hours. Written notice shall include the following:
 - a. The basis for the trespass determination;
 - b. A legal description of where the trespass occurred;
 - c. A verification of ownership of unauthorized property (e.g., brands in the State Brand Book for cases of livestock trespass, if applicable.);
 - d. Corrective actions that must be taken;
 - e. Time frames for taking the corrective actions;

- f. Potential consequences and penalties for failure to take corrective action;
 - g. Notice that unauthorized livestock or other property may be subject to immediate seizure and impoundment if the trespass is not corrected within the time provided for; and
 - h. A statement that unauthorized livestock or other property may not be disposed of unless authorized by the Crow Land Resources Department.
- (6) If the identity of the owner or possessor of trespass property or livestock is unknown or refuses delivery of the written notice, a public trespass notice will be immediately posted at the tribal offices and the U.S. Post Office nearest to the Crow Tribal agricultural lands where the trespass is occurring.
- (7) Trespass notices under this Section may be appealed in writing to the Crow Land Use Board prior to the expiration of the time provided to correct the alleged trespass.
- (8) Upon receipt of a trespass notice, the alleged trespasser must:
 - a. Cure the alleged trespass within forty-eight (48) hours;
 - b. Comply with all ordered corrective actions; or
 - c. Contact the Crow Land Resources Department in writing and provide an explanation of why the trespass notice is in error. Contact may be made by telephone or email, but any explanation of trespass must be made in writing. If the Crow Land Resources Department determines that the trespass notice was issued in error, written notice of withdrawal of the trespass notice will be provided to the alleged trespasser.
- (9) Written trespass notice will remain in effect for the same conduct identified in that written notice for a period of one year from the date of receipt of the written notice by the trespasser.
- (10) If the trespasser fails to take the specified corrective action within the timeframe provided above, any of the following actions are authorized:
 - a. Seize, impound, sell or dispose of unauthorized livestock or other property involved in the trespass. Seized property may be retained as evidence during the entire pendency of any appeal or dispute.
 - b. Assess penalties, damages, and costs against the trespasser for use of and damage to Tribal Lands and to legitimate lessor interests.
- (11) Unauthorized livestock or other property will be impounded when:

- a. There is imminent danger of severe injury to growing or harvestable crops or destruction of range forage
 - b. The known owner of the unauthorized livestock or other property and/or his/her representative refuses to accept delivery of a written notice of trespass and the unauthorized livestock or other property are not removed within the period prescribed in the written notice
 - c. Any time after forty-eight (48) hours after providing notice of trespass if the trespass is not corrected.
- (12) Following impoundment of unauthorized livestock or other property, notice of the sale of the impounded property shall be given as follows:
- d. Written notice of the sale will be provided to the owner, to the owner's representative, and to any known lien holder.
 - e. Written notice must include the procedure by which the impounded property may be redeemed prior to the sale.
 - f. Public notice of the sale of impounded property will be given by posting at the Crow Tribal Executive and Legislative Branch offices, the U.S. Post Offices on the Crow Indian Reservation, and by publishing in the local newspaper nearest to the Indian agricultural lands where the trespass occurred.
 - g. Public notice will include a description of the impounded property, and the date, time, and place of the public sale. The sale date must be at least five days after the initial publication and posting of public notice.
- (13) Impounded livestock or other property can be redeemed by submitting proof of ownership and paying all penalties, damages, all costs of enforcement and impoundment, and all other costs, fines, fees, or other penalties assessed and completing all corrective actions identified by Crow Land Resources Department staff.
- (14) Officers and/or agents of the Crow Tribal Land Resources Department are hereby authorized to enforce the trespass provisions of this Section, or of the American Indian Agricultural Resources Management Act, 107 Stat. 2011, and as implemented by 25 C.F.R. Part 166, Subpart I.
- (15) Trespass litigation may be initiated in Crow Tribal Court.

SECTION IX: SECTION 2 VIOLATOR RECORD

- (1) Within one year of the passage of this Ordinance, the Crow Land Resources Department staff shall compile a list of individuals, persons, corporations,

associations, or other entities currently in violation of Section 2 of the 1920 Crow Act. This list shall be known as the Section 2 Violator Record. Those individuals shall be sent notice, by registered mail, return receipt, informing them of this determination. Individuals listed on the Section 2 Violator Record may appeal this determination to the Crow Land Use Board, whose decision to confirm or rescind the determination of the Crow Land Resources Department Staff may be appealed in Crow Tribal Court.

- (2) Individuals, persons, corporations, associations, or other entities who are listed on the Section 2 Violator Record may work with the Crow Land Resources Department staff to document that they have come into compliance with Section 2 of the 1920 Crow Act, and/or ongoing efforts to come into compliance with Section 2 of the 1920 Crow Act. This shall include efforts to repurchase lands from individuals listed on the Section 2 Violator Record on behalf of the Crow Tribe or its members.
- (3) Upon the completion of the compilation of the Section 2 Violator Record, Crow Land Resources Department Staff shall allow for an additional period of six (6) months, after which time, parties who are listed on the Section 2 Violator Record shall not be awarded any lease for Crow Tribal lands.
- (4) No party shall be removed from the Section 2 Violator Record until s/he documents that s/he is in full compliance with Section 2 of the 1920 Crow Act.
- (5) The Crow Land Resources Department staff may update the Section 2 Violator Record as necessary. Removal of any party from the Section 2 Violator Record shall require approval by the Crow Land Use Board.

SECTION X: ENFORCEMENT

- (1) These regulations shall be enforced by the Crow Tribal Land Management Department.
- (2) Any officer or agent of the Crow Tribal Land Management Department shall have the authority to file a citation, complaint, or other action in Crow Tribal Court for the purpose of enforcing these regulations.
- (3) Any officer or agent of the Crow Tribal Land Management Department shall have the authority to work in conjunction with the Bureau of Indian Affairs to enforce these regulations.
- (4) Any person may grieve an action taken by the Crow Land Resources Department by appealing to the Crow Tribal Land Use Board through procedures to be adopted by the Board. Decisions of the Crow Tribal Land Use Board shall be immediately appealable to Crow Tribal Court, which shall have limited review as to the legal sufficiency of Board decisions.

(5) Unauthorized persons shall not remove any livestock without the owner's consent unless the livestock are in trespass and all provisions of Section VIII herein have been fully complied with. Violators of this provision may be prosecuted for cattle rustling, theft, or conversion.

SECTION XI: PAYMENT AND COLLECTIONS

(1) Payment for Crow Tribal Trust Lands should be made in conformity with the requirements in 25 C.F.R. § 166 Subpart E (Grazing Rental Rates, Payments, and Late Payment Collections).

(2) Payment for Crow Tribal Fee Lands should be made to the Crow Tribe.

(a) Payment may be made in person or via certified mail.

(b) Third-party checks, cash, and foreign currency are not acceptable forms of payment

(c) Personal or business checks drawn on the account of the lessee, money orders, cashier's checks, and certified checks are all valid and acceptable forms of payment.

(3) A payment is late if it is not received on or before the date it is due pursuant to the terms in the lease.

(4) In the event that a payment for a lease of Crow Tribal Fee Lands is not received when due, notice will be sent within five (5) business days to the individual responsible for making payment via certified mail. This notice shall inform him/her that a payment is due, the date the payment was due, the amount of payment due, and request that immediate payment in full be made. The notice shall provide that if the determination of late payment is in error, the individual may submit a cancelled check, receipt, voucher, or other documentation to establish when and how payment was made.

(5) Individuals who, after receiving notice that their lease payment is late, still fail to make payment or show that payment was previously made within ten (10) days for leases on Crow Tribal Fee Lands will be subject to any or all of the following penalties:

(a) Immediate cancellation of the lease for which payment is due;

(b) Collection of unpaid rent from any bonds posted;

(c) Accrual of interest at a daily rate of prime plus five percent on any amounts due to the Crow Tribe;

(d) Seizure of any livestock or property on the lands for which payment is due; and

(e) Suit in Crow Tribal Court to collect on any lease payments due and not received.

- (f) Ineligibility of the individual owing payment to bid for leases on any additional Crow Tribal lands until all amounts of past due payments and any penalties assessed are satisfied in full.

SECTION XII: LEGISLATIVE BRANCH OVERSIGHT

- (1) The Crow Land Resources Department shall present a quarterly departmental report to the Legislative Branch of the Crow Tribe at each regularly scheduled Legislative Session. This report shall include, but is not limited to:
- a. Report on most recent leasing cycle and approvals, including any significant changes in land lease patterns;
 - b. Actual income realized by the Crow Tribe from Crow Tribal lands held in trust and fee status, over the most recent leasing cycle.
 - c. Projected income from tribal land leases through the current leasing cycle;
 - d. Report on any significant Crow Land Use Board decisions, including any Crow Land Use Board decisions appealed to Crow Tribal Court;
 - e. Report on any departmental initiatives or projects to increase tribal landholdings;
 - f. Provide a list of delinquent lessors to Surface Land Committee on a quarterly basis.
- (2) The Legislative Branch of the Crow Tribe shall have the power to approve or deny petitions for the removal of a member of the Crow Land Use Board.
- (3) In the event that a Crow Land Use Board member is removed by the Legislative Branch of the Crow Tribe, a replacement shall be named and approved through the same procedures provided for in Section II(1). Any individual replacing a former Board member shall serve the remainder of the term of the Board member replaced. Serving the remainder of a term shall not count against the consecutive term limit in Section II(5).

**SECTION XIII: RESERVED FOR REGULATIONS GOVERNING CROW TRIBE
OFFICE OF LEASE MANAGEMENT**

SECTION XIV: RESERVED FOR RANGE UNIT REGULATIONS



Crow Country

LEGISLATIVE BRANCH OF THE CROW TRIBAL GOVERNMENT

P.O. Box 309 – MAKAWASHA Avenue

Crow Agency, Montana 59022

Phone: (406) 638-2023/2025/2238

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Legislative Branch

Pryor:

Arrow Creek

Larry Plain Bull, Sr.
Oliver Costa
Carlson Goes Ahead

Big Horn:

Valley of the Give

Away

Vincent Crooked Arm
Marlin D. Not Afraid
Pat Alden, Jr.

Dunmore:

Black Lodge

Bruce R. House
Ertis Fighter, Sr.
Conrad J. Stewart

Reno:

Center Lodge

Lloyd Hogan, Jr.
Sidney Fitzpatrick, Jr.
Oliver Half, Jr.

Lodge Grass:

Valley of the Chief

Manuel Covers Up, Sr.
Speaker of the House
Rudolph K. Old Crow
Woodrow Plainfeather

Wyola:

Mighty Few

Beverly M. Shane
Secretary of the House
Jonathan D. Stone
Dana Wilson

Staff

Jackie Blacksmith,
Administrative Officer

William Old Crow
Finance Officer/Admin.
Assist.

Sheri Chandler
Office Assist./Receptionist

Sheila Wilkinson
Legal Assistant

Kenny Pretty On Top
Maintenance/Custodian
Sergeant at Arms

Ronald Arneson, Esq.,
Attorney At Law

OFFICIAL CERTIFICATE OF DELIVERY

I, Beverly M. Shane, Secretary of the Legislative Branch of the Crow Tribal Government hereby this Transitional Action do deliver a True and Correct Official copy Of the Final Approval for the following Bill:

**INTRODUCED BY CEDRIC BLACK EAGLE, CHAIRMAN
CROW TRIBAL EXECUTIVE BRANCH**

A BILL FOR ACT ENTITLED:

"AN ACT ADOPTING A CROW TRIBAL LEASE ORDINANCE

No. CLB09-04 to William C. Mott in the
Position of: A Honey for the
Crow Tribal Executive Branch.

Done and dated this 20 day of July, 2009 @ 11:30 a.m./p.m.

Beverly Shane
Beverly M. Shane
Secretary of the House
Legislative Branch of the
Crow Tribal Government

Served by:

Jackie Blacksmith
Legislative Branch Staff

Cc: file

