

Title XIV - Health and Sanitation

Chapter 1. Disease Control

Sec. 101. Contagious disease

Chapter 2. Waste Disposal and Sewage Facilities

Sec. 201. Littering

Sec. 202. Waste disposal

Sec. 203. Sewage and other facilities

Sec. 204. Enforcement

Sec. 205. Severability

Chapter 3. Sanitation Requirements for Restaurants

Sec. 301. Definitions

Sec. 302. Sanitation requirements

Sec. 303. Permits

Sec. 304. Inspections

Sec. 305. Special provisions for itinerant restaurants

Sec. 306. Severability

Chapter 4. Fire Prevention

Sec. 401. Closing and posting of areas

Sec. 402. Persons prohibited

Sec. 403. Removal of unauthorized persons

Sec. 404. Campfires and smoking prohibited

Sec. 405. Controlled burning

Chapter 5. Dogs and Pets

Sec. 501. Applicability

Sec. 502. Licenses

Sec. 503. Vaccination

Sec. 504. Stray dogs

Sec. 504a. Control of pets

Sec. 505. Quarantine

Sec. 506. Enforcement

Sec. 507. Severability

Sec. 508. Violations

Chapter 6. Tribal Board of Health

Sec. 601. Definitions

Sec. 602. Federal Funds - acceptance - allocation

Sec. 603. Tribal Board of Health - composition

Sec. 604. Legal Advisor

Sec. 605. Functions, Powers and Duties of the Tribal Board of Health

Sec. 606. Tribal Health Officer - powers and duties

Sec. 607. Tribal Health Officer - assistance of Tribal and Federal officials

- Sec. 608. Cases of Communicable Disease - reports of physician or practitioners of the healing arts
- Sec. 609. Vaccinations
- Sec. 610. Diseased prisoners - removal from jail to medical Facility by the Tribal Health Officer
- Sec. 611. Obstructing the Tribal Health Officer in the performance of his duties - unlawful
- Sec. 612. Penalties
- Sec. 613. Reporting of AIDS and HIV diagnoses
- Sec. 614. Contact notification of HIV-infected persons

Chapter 1. Disease Control

Sec. 101. Contagious disease.

(a) Whenever the Tribal Health Officer of the Public Health Service on the Fort Peck Indian Reservation has probable cause to believe that an Indian on the Reservation is afflicted with a contagious disease, he/she may apply to the Fort Peck Tribal Court for an order that the affected Indian should be removed to a hospital for examination and treatment.

(b) The application shall:

(1) state that there is probable cause to believe that the Indian is afflicted with a contagious disease, and what disease, and set forth the facts supporting probable cause;

(2) state that the Indian affected will not voluntarily accept treatment and examination; and

(3) state that the Indian, by reason of his/her illness, is endangering or likely to endanger the public health of the community, and set forth the facts supporting that conclusion.

(c) The Court shall promptly set the matter for hearing, and shall cause the affected Indian to be served with reasonable prior notice of the time and place of the hearing, together with a copy of the application of the Tribal Health Officer.

(d) If after the hearing the Court determines that the Indian is afflicted with a contagious disease, or that there is probable cause to believe the Indian is afflicted with a contagious disease, and that the Indian, by reason of his/her illness, is endangering or likely to endanger the public health, the Court may issue an order for the removal of the Indian to a hospital or other appropriate place for such examination and treatment as may be required. Otherwise he/she shall be discharged. The Court, in its discretion, may upon finding probable cause, order the Indian examined prior to the conclusion of the hearing.

(e) The order of the Court shall constitute continuing authority for the detention of the Indian in the place designated until the Indian is discharged by the proper medical authorities or by the Court; provided that the Indian shall not be detained if he/she is found not to have a contagious disease, nor shall he/she be detained longer than necessary to protect the public health of the community.

(f) Removal, detention, examination and treatment under this Section shall be without cost to the affected Indian.

Chapter 2. Waste Disposal and Sewage Facilities

Sec. 201. Littering.

(a) No person shall abandon, throw or deposit any destructive, injurious or unsightly material, including but not limited to any glass bottles, glass, nails, tacks, wire, cans, rubbish, motor vehicle parts, or animal carcass, upon or alongside any public right of way, public road or highway.

(b) Any person removing a wrecked or damaged vehicle from a public right of way, public road or highway shall at the same time remove any glass, injurious substance or debris which is a remnant or deposit from such vehicle.

(c) No person shall dump or deposit any garbage or refuse of any kind or any animal carcass on any trust land, except on lands specifically designated by the Fort Peck Tribal Executive Board as a public dumping ground.

(d) Violations. Any Indian who violates this Section shall be punished in accordance with Section 470 of Title VII (Criminal Offenses). Any other person who shall violate this ordinance shall be delivered to the custody of Federal or State law enforcement officers for prosecution under applicable Federal or State law.

Sec. 202. Waste disposal.

No person shall dispose of any body waste, garbage, trash, rubbish or other waste in such a manner as to:

(a) Contaminate any underground water supply used for domestic purposes;

(b) Pollute or contaminate the waters of any bathing area or any stream or body of water used for public or domestic water supply purposes or for recreational purposes;

(c) Create a breeding or harborage place for insects or rodents;

(d) Make such waste accessible to insects, rodents or other possible carriers of disease which may come into contact with food or drinking water;

(e) Make such waste an unsightly appearance or source of noxious order; or

(f) Otherwise be detrimental to the health, welfare and well-being of the community.

Sec. 203. Sewage and other facilities.

Any person who has, possesses or operates any sewage facilities, garbage and refuse disposal facilities, water wells, pumps or plumbing equipment and attachments thereto, shall:

(a) operate such facilities or equipment in an approved sanitary manner, so as not to create a public health hazard; and

(b) fully maintain and repair such facilities or equipment in such a manner as to keep them operative and so as not to create a public health hazard.

Sec. 204. Enforcement.

The law enforcement agency for the Fort Peck Indian Reservation is authorized to enter any premises, dwelling or housing structure to make inspections pursuant to Sections 202 and 203 of this Chapter. If any person refuses to allow an authorized law enforcement officer to inspect a premises, dwelling or housing structure, the law enforcement agency may apply to the Tribal Court for a warrant to enter and inspect the premises, dwelling or housing structure. The Court may issue such a warrant if it finds, after a hearing, either that there is probable cause to believe that the premises, dwelling or housing structure contains a violation of Section 202 or 203, or that the premises, dwelling or housing structure was selected for inspection pursuant to a general

administrative plan for enforcement of Sections 202 and 203.

Sec. 205. Severability.

Should any section, paragraph, sentence, clause or phrase of this Chapter be declared unconstitutional or invalid for any reason, the remainder of said Chapter shall not be affected thereby.

Chapter 3. Sanitation Requirements for Restaurants

Sec. 301. Definitions.

For the purposes of this chapter:

(a) Restaurant shall mean any restaurant, coffee shop, cafeteria, short order café, luncheonette, tavern, sandwich stand, soda fountain or other eating or drinking establishment, as well as kitchens or other places in which food or drink is prepared for sale elsewhere, located on trust land within the Reservation or owned and operated wholly or in part by any Indian within the Reservation.

(b) Itinerant Restaurant shall mean a restaurant located on trust land within the Reservation or owned and operated wholly or in part by any Indian within the Reservation, operating for a temporary period in connection with a fair, carnival, circus, public exhibition, Tribal ceremonial or other gathering.

(c) Employee shall mean any person who handles food or drink during preparation or serving, or who comes in contact with any eating or cooking utensils, or who is employed in a room in which food or drink is prepared or served.

(d) Utensils shall include any kitchenware, tableware, glassware, cutlery, utensils, containers or other equipment with which food or drink comes in contact during storage, preparation or serving.

(e) Authorized Representative shall mean a person appointed by the Fort Peck Executive Board to administer this Chapter.

Sec. 302. Sanitation requirements.

All restaurants shall comply with the following requirements:

(a) Floors. The floors of all rooms in which food or drink is stored, prepared or served, or in which utensils are washed, shall be of such construction as to be easily cleaned, shall be smooth, and shall be kept clean and in good repair.

(b) Walls and ceilings. Walls and ceilings of all rooms shall be kept clean and in good repair. All walls and ceilings of rooms in which food or drink is stored, prepared or served shall be finished in light color. The walls of all rooms in which food or drink is prepared or utensils are washed shall have a smooth washable surface up to the level reached by splash or spray.

(c) Doors and windows. When flies are prevalent, all openings into the outer air shall be effectively screened and doors shall be self-closing, unless other effective means are provided to prevent the entrance of flies.

(d) Lighting. All rooms in which food or drink is stored, prepared or served, or in which utensils are washed, shall be well lighted.

(e) Ventilation. All rooms in which food or drink is stored, prepared or served, or in

which utensils are washed, shall be well ventilated.

(f) Toilet facilities. Every restaurant shall be provided with adequate and conveniently located toilet facilities for its employees, and customers. In restaurants constructed after August 11, 1964, toilet rooms shall not open directly into any room in which food, drink or utensils are handled, stored or served. The doors of all toilet rooms shall be self-closing. Toilet rooms shall be kept in a clean condition, in good repair, and well lighted and ventilated.

Hand-washing signs shall be posted in each toilet room used by employees. In case privies or earth closets are permitted and used, they shall be separate from the restaurant building, and shall be of a sanitary type.

(g) Lavatory facilities. Adequate and convenient hand washing facilities shall be provided, including hot and cold running water, soap and approved sanitary towels. The use of a common towel is prohibited. No employee shall resume work after using the toilet room without first thoroughly washing his/her hands.

(h) Water supply. Running water under pressure shall be easily accessible to all rooms in which food is prepared or utensils are washed, and the water supply shall be adequate, and of a safe, sanitary quality.

(i) Construction of utensils and equipment. All multi-use utensils and all show and display cases or windows, counters, shelves, tables, refrigerating equipment, sinks and other equipment or utensils used in connection with the operation of a restaurant shall be so constructed as to be easily cleaned and shall be kept in good repair. Utensils containing or plated with cadmium or lead shall not be used, except that utensils using solder containing lead for jointing are permitted.

(j) Cleaning and bacteria treatment of utensils and equipment.

(1) All equipment, including display cases or windows, counters, shelves, tables, refrigerators, stoves, hoods and sinks, shall be kept clean and free from dust, dirt, insects and other contaminating material. All cloths used by waiters, chefs and other employees shall be clean. Single-service containers shall be used only once.

(2) All multi-use eating and drinking utensils shall be thoroughly cleaned and subjected to an effective bactericidal process after each usage. All multi-use utensils used in the preparation or serving of food and drink shall be thoroughly cleaned and subjected to an effective bactericidal process after each usage. All multi-use utensils used in the preparation or serving of food and drink, shall be thoroughly cleaned and subjected to an effective bactericidal process immediately following the day's operation. Drying cloths, if used, shall be clean and shall be used for no other purpose.

(3) No article, polish or other substance containing any cyanide preparation or other poisonous material shall be used for the cleaning or polishing of utensils.

(k) Storage and handling of utensils and equipment. Utensils shall be stored in a clean, dry place protected from flies, dust and other contamination, and shall be handled in such a manner as to prevent contamination as far as practicable. Single-service utensils shall be purchased only in sanitary containers, shall be stored therein in a clean, dry place until used, and shall be handled in a sanitary manner.

(l) Disposal of wastes. All wastes shall be properly disposed of, and all garbage and trash shall be kept in suitable receptacles, in such manner as not to become a nuisance. All waste disposal shall comply with Chapter 2 of this Title.

(m) Refrigeration. All readily perishable food and drink shall be kept at or below

fifty degrees (50) Fahrenheit except when being prepared or served. Waste water from refrigeration equipment shall be properly disposed of.

(n) Wholesomeness of food. All food and drink shall be clean, wholesome, free from spoilage and so prepared as to be safe for human consumption. All milk, fluid milk productions, ice cream, and other frozen desserts shall be served in the individual original containers in which they were received from the distributor or from a bulk container equipped with an approved dispensing device, except that cream may be served from the original bottle or from a dispenser approved for such service. All oysters, clams and mussels shall be from approved sources, and if shucked shall be kept until used in the containers in which they were placed at the shucking plant.

(o) Storage, display and serving of food and drink. All food and drink shall be stored, displayed and served so as to be protected from dust, flies, vermin, depredation and pollution by rodents, unnecessary handling, droplet infection, overhead leakage and other contamination. No animals or fowls shall be kept or allowed in any room in which food or drink is prepared, stored or served. All means necessary for the elimination of flies, roaches and rodents shall be used.

(p) Cleanliness of employees. All employees shall wear clean outer garments and shall keep their hands clean at all times while engaged in handling food, drink, utensils or equipment. Employees shall not expectorate or use tobacco in any form in rooms in which food is prepared or served. No person suffering from any disease transmissible by contact or through food or drink or who is a carrier of the germs of such a disease shall be employed in any capacity.

(q) Miscellaneous. The premises of all restaurants shall be kept clean and free of litter or rubbish. None of the operations connected with a restaurant shall be conducted in any room used as living or sleeping quarters. Adequate lockers or dressing rooms shall be provided for employees' clothing and shall be kept clean. Soiled linens, coats and aprons shall be kept in containers provided for this purpose.

Sec. 303. Permits.

(a) It shall be unlawful for any Indian to operate a restaurant within the Fort Peck Reservation, or for any person to operate a restaurant on trust land, who does not possess a valid permit from the authorized representative.

(b) The permit shall be issued by the authorized representative after an initial inspection to assure that the proposed restaurant is in compliance with Section 302 of this Chapter. It shall state the location at which the restaurant is authorized to be operated and name the persons who are authorized to operate it. The permit shall be posted in a conspicuous place in the restaurant.

(c) A permit may be temporarily suspended by the authorized representative, in accordance with Section 304(a) of this Chapter, upon the violation by the holder of any of the terms of this Chapter, or revoked after an opportunity for a hearing by the authorized representative upon serious or repeated violation.

(d) Any person whose permit has been suspended may at any time make application for the reinstatement of the permit. Within one (1) week after the receipt of a satisfactory application, accompanied by a statement signed by the applicant to the effect that the violations leading to the suspension have been corrected, the authorized representative shall make a reinspection, and thereafter as many additional re-inspections as he/she may deem necessary to assure himself/herself that the applicant is again complying with the requirements and, in case the findings indicate compliance, shall reinstate the permit. In any case in which an application for reinstatement

is denied, the applicant may apply to the Tribal Court within fifteen (15) days for review of the denial. The Tribal Court shall affirm the action of the authorized representative if it is supported by substantial evidence.

Sec. 304. Inspections.

(a) At least once every six (6) months the authorized representative shall inspect every restaurant located on trust land within the Reservation, or owned and operated wholly or in part by any Indian within the Reservation. In case the authorized representative discovers the violation of any item of sanitation, he/she shall notify the owner and operator of the restaurant of such violation. If exceptional violations are discovered, the authorized representative may suspend all operations of the restaurant until they are cured. Otherwise, he/she shall make a second inspection after the lapse of such time as he/she deems necessary for the defects to be remedied, and may, if he/she shall discover any violation of the same item of this Chapter on such second inspection, suspend the permit required by Section 303 of this Chapter.

(b) One (1) copy of the most recent inspection report shall be posted by the authorized representative upon an inside wall of the restaurant, and said inspection report shall not be defaced or removed by any person except the authorized representative. Another copy of the inspection report shall be filed with the records of the authorized representative.

(c) Samples of food, drink and other substances may be taken and examined by the authorized representative as often as may be necessary for the detection of unwholesomeness or adulteration. The authorized representative may condemn and forbid the sale of, or cause to be removed or destroyed, any food or drink which is unwholesome or adulterated.

(d) The person operating the restaurant shall, upon request of the authorized representative, permit access to all parts of the establishment and shall permit copying of any or all records of food purchased.

Sec. 305. Special provisions for itinerant restaurants.

An itinerant restaurant shall comply with the provisions of this Chapter except as follows:

(a) In lieu of Section 302, the itinerant restaurants shall comply with the following sanitary requirements:

(1) It shall be located in clean surroundings and be kept in a clean and sanitary condition. It shall be so constructed and arranged that food, drink, utensils and equipment will not be exposed to insects or to dust or other contamination.

(2) Only food and drink which is clean, wholesome and free from adulteration shall be sold or served.

(3) An adequate supply of water of safe, sanitary quality shall be easily available for drinking and cleaning utensils and equipment.

(4) If multi-use utensils are used in preparation of food or drink, they shall comply with Section 302(i) and be handled in accordance with Sections 302(j) and (k). However, eating and drinking utensils used by the public shall be single-service utensils only, and shall be purchased and stored in sanitary cartons and handled after removal from the cartons in a sanitary manner.

(5) Adequate provision shall be made for refrigeration of perishable food and drink. Ice used in or with food or drink shall be from an approved source and be so handled as to avoid contamination.

(6) Garbage and refuse shall be kept in tightly covered, water-tight containers until removed, and shall be disposed of in a place and manner approved by the authorized representative and in compliance with Chapter 2 of this Title.

(7) Dishwasher and other liquid wastes shall be disposed of so as not to create a nuisance.

(8) All employees shall comply with Section 302(p).

(9) Adequate and satisfactory toilet and hand washing facilities shall be readily accessible to employees. No person engaged in the handling or serving of food or drink shall return to work after using the toilet without first thoroughly washing his/her hands.

(b) Inspections required by Section 304 shall take place at the discretion of the authorized representative, and a copy of the inspection report need not be posted in the restaurant. The authorized representative may summarily suspend the permit in accordance with (c) (2) below.

(c) (1) The permit required by Section 303 shall state where and for how long the restaurant may operate. (2) Upon failure of any person maintaining or operating an itinerant restaurant, after warning, to comply with any of these requirements, the authorized representative may summarily suspend the permit and forbid the further sale of serving of food or drink.

Sec. 306. Severability.

Should any section, paragraph, sentence, clause or phrase of this Chapter be declared unconstitutional or invalid for any reason, the remainder of the Chapter shall not be affected thereby.

Chapter 4. Fire Prevention

Sec. 401. Closing and posting of areas.

(a) Upon the advice of the Tribal Executive Board, the Chairman of the Tribal Executive Board may order any area of trust land within the Reservation closed to entry by the general public because of the danger of fire.

(b) Whenever an area is closed under subsection (a), such closing shall be announced through available news media, to the extent appropriate, and signs stating that the area is closed to the public, and that campfires and smoking are prohibited, shall be posted in a conspicuous place on each road and trail entering the closed area. However, the validity of any order closing an area shall not be affected by failure to make the announcements or post the signs as provided by this subsection.

Sec. 402. Persons prohibited.

All persons are prohibited from entering or remaining in areas closed under Section 401, except:

(a) persons who regularly reside within the closed area may go to and from their homes and continue such ordinary activities in and around their homes as do not constitute an unreasonable fire hazard.

(b) officers and employees of the United States, or the Tribes, in the performance of their official duties.

(c) lessees, licensees or permittees of the Tribes, and their officers and agents, for the purpose of going to or from their leased, licensed or permitted premises, and conducting

activities in such a manner as to not constitute an unreasonable fire hazard.

(d) grantees of rights of way for the purpose of necessary maintenance of their right-of-way in such a manner as to not constitute and unreasonable fire hazard, but the closing order may prohibit or restrict the use of any road right-of-way by the general public.

Sec. 403. Removal of unauthorized persons.

(a) It shall be the duty of any authorized law enforcement officer to warn any unauthorized person found in a closed area to leave the closed area at once, and if such person does not comply without delay, to remove such person from the closed area.

(b) (1) Any Indian removed may be detained only long enough to remove him/her, unless he/she is arrested in accordance with the procedures of Title VI (Criminal Procedure).

(2) Any non-Indian removed shall be delivered to the custody of Federal or State law enforcement officials or reported to such officers for prosecution under applicable Federal or State law, and the Chairman of the Tribal Executive Board shall be so advised. Such person may be thereafter excluded from all trust land within the Reservation for such period of time as the Tribal Court shall determine.

Sec. 404. Campfires and smoking prohibited.

(a) Campfires are absolutely prohibited within any area closed under Section 401.

(b) Smoking is prohibited in any area closed under Section 401, except inside substantial buildings.

Sec. 405. Controlled burning.

A valid burning permit issued by the Superintendent, Fort Peck Agency, or his/her authorized representative, is required for controlled burning on any trust lands within the exterior boundaries of the Fort Peck Indian Reservation.

Chapter 5. Dogs and Pets

Sec. 501. Applicability.

This Chapter applies to all dogs kept or maintained on the Fort Peck Indian Reservation, and to all other mammals kept or maintained on the Reservation as domesticated pets, except small mammals kept in cages at all times.

Sec. 502. Licenses.

Each owner of a dog or domesticated pet on the Reservation shall obtain a license for it from the Tribes within a reasonable time of obtaining the dog or pet, and shall thereafter obtain a renewal license prior to the beginning of the calendar year for each year the dog or domesticated pet is kept or maintained on the Reservation. No license or renewal license shall be issued unless a current certificate of vaccination is presented at the time the license is sought. A reasonable fee for licenses and renewal licenses, established from time to time by the Chairman of the Tribal Executive Board, shall be collected when the license is issued.

Sec. 503. Vaccination.

(a) All dogs or domesticated pets shall be vaccinated against rabies with a modified live virus inactivated embryo serum. Each owner of a dog or domesticated pet shall see to it that its rabies vaccination is current. Certificates of accination shall be retained by the owner and are subject

to review upon request by the Fort Peck Tribal police.

(b) All dogs and domesticated pets shall wear collars upon which is displayed a rabies vaccination tag showing the number of the certificate of vaccination and the year of expiration of the vaccination.

Sec. 504. Stray dogs.

(a) The Tribes shall maintain a shelter for the collection of all unclaimed or unwanted dogs or domesticated pets. The Tribes shall also provide facilities for the destruction in a humane manner of dogs or domesticated pets not licensed or vaccinated in accordance with this Chapter.

(b) Dogs and domesticated pets shall be kept at the shelter for a period of not less than five (5) days before being destroyed. A dog or domesticated pet may be claimed by its owner at any time before it is destroyed, and by any other person after the five (5) day waiting period and before it is destroyed. Any person other than the owner may request that a particular dog or domesticated pet be reserved for him/her and that he/she be given a chance to claim it before it is destroyed if it is not claimed by the owner during the five (5) day period.

(c) Before a dog or domesticated pet may be removed from the shelter, the claimant shall:

(1) obtain a license from the Tribes for it, if it is not already currently licensed to the claimant;

(2) present a certificate of vaccination, or have the pet vaccinated at the shelter and pay a reasonable charge therefor; and

(3) pay a reasonable board fee established by the Chairman of the Executive Board for each day the dog has been retained at the shelter.

(d) Notwithstanding subsections (b) and (c) of this Section, any unlicensed stray dog or domesticated pet which is a health hazard to the populace of the Fort Peck Reservation may be destroyed immediately.

Sec. 504(a) Control of pets.

In any collection of five (5) or more residences, including all recognized Reservation cities, towns and communities, all owners of dogs and other domesticated pets shall prevent their pets from freely roaming from the owner's immediate property. This shall be achieved by the owner's fencing of their property, directly securing their pet(s) by means of leash or harness, or by any other means which adequately prevents their pets from roaming away from the owner's property. Any pet(s), whether licensed or unlicensed, that roam away from the owner's property shall be considered a stray animal, and shall be dealt with as directed by Section 504.

(AMENDED AS PER RESOLUTION NO. 2603-87- 5, DATED 05/11/87.)

Sec. 505. Quarantine.

(a) Any animal capable of carrying rabies which is reported to have bitten any person shall be quarantined for a period of not less than two (2) weeks with a qualified veterinarian or other approved authority. Such animal shall not be released without permission from competent authority.

(b) Should the animal be quarantined at the Tribal shelter, the owner shall pay the board for the animal at the rate established under Section 504(c)(3) for each day the animal is held.

Sec. 506. Enforcement.

This Chapter shall be enforced by the Fort Peck Tribes' animal control officer in cooperation with the Bureau of Indian Affairs police.

Sec. 507. Severability.

Should any section, paragraph, sentence, clause or phrase of this Chapter be declared unconstitutional or invalid for any reason, the remainder of the Chapter shall not be affected thereby.

Sec. 508. Violations.

Violation of any provision of this chapter shall constitute a Class B misdemeanor.

Chapter 6. Tribal Board of Health

Sec. 601. Definitions

- (a) "Local board" means the Fort Peck Tribal Board of Health.
- (b) "Local Health Officer" means the Tribal Health Officer appointed by the Tribal Board of Health.
- (c) "Physician" means a physician legally authorized to practice medicine.

Sec. 602. Federal funds – acceptance – allocation.

With the approval of the Tribal Board of Health, the Tribal Health Officer may accept funds for public health from an agency of the Federal Government, or from any other agency or person, and allocate funds within the Tribal Health Department.

Sec. 603. Tribal Board of Health – composition.

There is a Tribal Board of Health consisting of the Health, Education and Welfare Committee, whose members are appointed by the Tribal Executive Board.

Sec. 604. Legal Advisor.

The Tribal attorneys shall serve as legal advisors to the Tribal Board of Health and shall represent the Board in those matters relating to the functions, powers and duties of the Board.

Sec. 605. Functions, Powers and Duties of the Tribal Board of Health.

- (a) The Board shall:
 - (1) Appoint a local health officer, who will be the Tribal Health Director, unless special circumstances should cause the Tribal Board of Health to appoint a physician or someone else with appropriate education and experience, and fix his salary.
 - (2) Elect a chairman and other necessary officers.
 - (3) Employ necessary, qualified staff.
 - (4) Adopt bylaws to govern meetings.
 - (5) Hold regular and special meetings as necessary.
 - (6) Supervise destruction and removal of all sources of filth which cause disease.
 - (7) Guard against the introduction of communicable disease.
 - (8) Supervise inspections of public establishments for sanitary conditions and safety.
 - (9) Guard against the introduction of hazardous materials and wastes.
 - (10) Supervise the clean-up and disposal of all hazardous wastes.
- (b) The Board may:
 - (1) Adopt regulations and fees ensuring proper, safe construction and operation of

sanitary facilities (water supply, sewage disposal and solid waste disposal).

(2) Quarantine persons who have communicable diseases.

(3) Require isolation of persons or things which are infected with communicable diseases or contaminated with hazardous materials or are otherwise unsafe or hazardous.

(4) Furnish treatment for persons who have communicable diseases.

(5) Prohibit the use of places which are infected with communicable diseases or contaminated with hazardous materials or are otherwise unsafe or hazardous.

(6) Require and provide means for disinfecting or decontaminating places which are infected with communicable diseases or hazardous materials.

(7) Accept and spend funds received from a federal agency, the state, other agencies or persons.

(8) Contract with other Boards of Health, federal, state or local agencies or persons for all, or part of, local health services.

(9) Reimburse local health officers for necessary expenses incurred in official duties.

(10) Abate nuisances affecting public health and safety or bring action necessary to restrain the violation of federal or tribal health and safety codes or rules.

(11) Adopt necessary regulations and fees for the control and disposal of sewage from private and public buildings.

(12) Adopt rules for the removal of filth which might cause disease or adversely affect public health.

(13) Adopt rules for the control of communicable diseases and hazardous materials.

(14) Adopt rules on sanitation and safety in public buildings which affect public health.

(15) Adopt rules for construction, heating, ventilation, water supply, waste disposal, plumbing, safety, fire prevention, and other items in public or private facilities which might endanger human lives or health.

Sec. 606. Tribal Health Officer – powers and duties.

(a) The Tribal Health Officer or his authorized representatives, shall:

(1) Make inspections for health and safety conditions.

(2) Issue written orders for the destruction and removal of all filth which might cause disease.

(3) Order buildings or facilities where people congregate closed due to health or safety hazards.

(4) Establish and maintain quarantines.

(5) Supervise the disinfecting of facilities or the clean-up and disposal of hazardous materials.

(6) File a complaint with the Tribal Court if provisions of this Title are violated or with the Federal Court if federal regulations are violated.

(7) Enforce federal and tribal laws, codes and regulations and construction standards, that pertain to public health and safety.

(b) The Tribal Health Officer or his authorized representatives may:

(1) Forbid persons to assemble in any place if the assembly endangers public health and safety.

(2) Require isolation of persons or things which are infected with communicable

disease or contaminated with hazardous materials.

(3) Require disinfecting or decontamination of places which are infected with communicable disease or contaminated with hazardous materials.

(4) Abate nuisances or public health or safety hazards or bring action necessary to restrain the violation of federal or tribal health and safety codes or rules.

Sec. 607. Tribal Health Officer – assistance of Tribal and Federal officials.

The Tribal Health Officer or his authorized representatives may request tribal or other government personnel to assist them in carrying out the provisions of this Title of the Comprehensive Code of Justice. If the official does not render the service, he is guilty of a misdemeanor and may be removed from office.

Sec. 608. Cases of Communicable Disease – reports of physician or practitioners of the healing arts.

If a physician or other practitioner of the healing arts examines or treats a person whom he believes has a communicable disease, or a disease declared reportable by the Tribal Board of Health, he shall immediately report the case to the Tribal Health Officer. The report shall be in the form and contain information, prescribed by the Health Officer.

Sec. 609. Vaccinations

If there is a reasonable belief that a highly communicable disease exists or may exist, the department may require all persons frequenting any public facility, within the infected or threatened area to be vaccinated, or to present evidence of successful vaccination. Unless a person presents evidence of vaccination, it is unlawful for him to enter any public facility in the area.

Sec. 610. Diseased prisoners – removal from jail to medical facility by the Tribal Health Officer.

On written order of the Tribal Health Officer, a diseased prisoner who is held in a jail or detention facility and who is considered dangerous to the health of other prisoners may be removed to a medical facility or other place of safety. When the prisoner recovers from the disease, he shall be returned to jail. If the prisoner was committed to jail by order of the court, the order for removal and treatment shall be signed by the Tribal Health Officer and filed with the court.

Sec. 611. Obstructing the Tribal Health Officer in the performance of his duties – unlawful.

It is unlawful to:

(a) Hinder the Tribal Health Officer or his authorized representatives in the performance of their duties.

(b) Remove or deface any placard or notice posted by the Tribal Health Officer or his representatives.

(c) Violate a quarantine or a lawful order of the Tribal Health Officer or his authorized representatives.

Sec. 612. Penalties

(a) If a person refuses or neglects to comply with a written order of the Tribal Health Officer or his designated representatives within a reasonable time specified in the order, the Health Officer may cause the order to be complied with and initiate any action to recover any expenses incurred

from the person who refused or neglected to comply with the order. The action to recover the expenses shall be brought in the name of the Tribes.

(b) A person who does not comply with rules adopted by the Tribal Board of Health is guilty of a Class A misdemeanor, unless otherwise specified in another section of the Comprehensive Code of Justice.

Sec. 613. Reporting of AIDS and HIV diagnoses.

(a) A physician or other medical practitioner who examines or tests an individual on the Reservation, and makes a diagnosis of Acquired Immunodeficiency Syndrome (AIDS), AIDS-Related Complex (ARC), or Human Immunodeficiency Virus (HIV) infection shall, within 24 hours, inform the Tribal Health Officer (or an official designated by him or her) of the diagnosis. The report shall include the name, age and address (if known) and be in the form, and contain information, prescribed by the Tribal Health Officer.

(b) The administrator of a hospital or nursing home or other medical facility in which a diagnosis of AIDS, ARC, or HIV infection is made, and the director of a medical laboratory in which such tests are conducted, shall ensure that a report has been made to the Tribal Health Officer. If no such report has been made, then he or she shall make the report.

(c) Any person required to make a report under the above provisions, who does not make the report within the stipulated time, shall be subject to a civil fine of a maximum amount of \$5,000.00 for each offense.

(d) Any information received by the Tribal Health Officer in compliance with this section, that identifies the person for whom a diagnosis of AID, ARC, or HIV infection has been made, shall be treated as confidential. Such confidential information shall not be open to public scrutiny and shall be disclosed to persons other than employees of the Tribal Health Department only (1) with the consent of the patient (or his/her legal representative) or (2) in compliance with Section 614 of this Chapter or some other legal requirement, or (3) when such disclosure is otherwise in accordance with established medical ethics and procedure. When such information is disclosed to any person, he/she shall be informed of its confidential nature, and shall keep the information confidential.

Sec. 614. Contact notification of HIV-infected persons.

The Tribal health Officer, a physician, or a nominee of the Tribal Health Officer, may inform persons whom they reasonably believe have had contacts with an individual infected with the Human Immunodeficiency Virus (HIV), such that they may have been exposed to the HIV under the following conditions: (a) the physician or Tribal Health Officer reasonably believes that there is a significant risk of exposure to the person informed, (b) the infected individual has been counseled regarding the need to inform such potential contacts, and the physician or Health Officer believes that the infected individual will not do so, (c) the physician or Health Officer informs the infected individual or his/her intention to inform the person, (d) the person is informed of the risk by a physician or some other person appropriately placed to counsel the contact, (e) the person informed is given information about HIVtesting centers and other facilities offering counseling and services for AIDS/HIV patients, and (f) the identity of the HIV-infected individual from whom the person may have contracted the infection is not disclosed. Provided, however, that physicians and the Tribal Health Officer are not under any legal obligation to warn contacts that they may have been exposed to the HIV.

(BY RESOLUTION NO. 2651-97-4, DATED 04/25/97.)

