

**SALT RIVER PIMA-MARICOPA
INDIAN COMMUNITY**
10005 East Osborn Road
Scottsdale, Arizona 85256

ORDINANCE NUMBER: SRO-517-2020

**TO ENACT NEW ARTICLES VII AND VIII TO CHAPTER 13 TO PROTECT THE
PUBLIC HEALTH FROM CONTAGIOUS DISEASES, INCLUDING DURING A
DECLARED PUBLIC HEALTH EMERGENCY.**

An Amendment to Chapter 13 that repeals Article III, Sections 13-73 through 13-77 (Tuberculosis); and provides for new Articles VII and VIII to provide public health measures from contagious diseases, including tuberculosis, and declared public health emergencies.

**Chapter 13, Article VII.
Reports of Contagious Diseases in General**

Sec. 13-200. Report of contagious diseases

A person who learns that a contagious, epidemic or infectious disease exists shall immediately make a report of the particulars to the Community's Health and Human Services Department ("department"). The report shall include names and residences of persons afflicted with the disease. If the person reporting is the attending physician he/she shall report on the condition of the person afflicted and the status of the disease at least twice each week.

Sec. 13-201. Report by hotel keepers of contagious diseases

The keeper of a boarding house, lodging house, motel or hotel shall report in writing to the department, each case of contagious, infectious or epidemic disease in the establishment. Such report shall be made within twenty-four hours after existence of the disease is known and shall include the name of persons afflicted and the nature of the disease.

Sec. 13-202. Report by physician of death from contagious disease

Physicians shall report in writing to the department the death of patients dying from contagious, infectious or epidemic diseases within the Community boundaries. The report shall be made within twenty-four hours or sooner after death, and shall include the specific name and character of the disease.

Sec. 13-203. Quarantine and sanitary measures to prevent contagion

When the department is apprised that infectious or contagious disease exists within the Community's boundaries, it shall immediately conduct an investigation. If the investigation discloses that the disease does exist, the director of the department may adopt quarantine and sanitary measures consistent with this article to prevent the spread of the disease. The department shall immediately notify the president, vice president and the community manager of the existence and nature of the disease and measures taken concerning it.

Sec. 13-204. Disinfection or destruction of contaminated bedding and other articles

- a. The department may cause the destruction of beds, bedding, clothing, carpets or other articles which have been exposed to contamination from infectious or contagious disease, and allow reasonable compensation for destroyed articles.
- b. The department may provide a place with necessary apparatus and attendants for disinfection of contaminated articles and cause them to be disinfected, and may provide transportation for the conveyance of such articles or persons afflicted with contagious or infectious disease.

Sec. 13-205. Temporary hospitals for persons with contagious disease

The department may provide a temporary hospital or place of reception for persons with infectious or contagious diseases. Hospitals or other places in which infectious or contagious disease exists shall be under the control of the department while such disease exists.

Sec. 13-206. Provision for care of persons afflicted with contagious disease; expenses

- a. The department may employ physicians and other persons and provide such necessities of life as they deem necessary for care of persons afflicted with contagious or infectious diseases.

- b. Reasonable and necessary expenses incurred in carrying out the provisions of this article, including care, medical attention or support of a sick person, may be paid for by the department.

Sec. 13-207. Violation; classification

A person who knowingly hides, misinforms, misleads health and public safety officials about himself/herself or others known to have a contagious or infectious disease; or a public health official or a member of the department who with criminal negligence fails or refuses to perform a duty shall be guilty of a class B offense unless another classification is specifically prescribed in this article.

Sec. 13-208. Person with contagious or infectious disease exposing himself to public; classification; exception

A person who knowingly exposes himself or another person afflicted with a contagious or infectious disease in a public place or thoroughfare, except in the necessary removal of such person in a manner least dangerous to the public health, is guilty of a class B offense.

Sec. 13-209. Tuberculosis and other contagious disease control

- a. The department may petition the court for court ordered examination, monitoring, treatment, isolation or quarantine of an afflicted person who presents a substantial danger to another person or to the community and who has failed to comply with a voluntary treatment plan or a written order to cooperate. The petition may be brought in the Salt River Community Court provided the person resides or is physically located within the exterior boundaries of the Salt River Pima-Maricopa Indian Community.
- b. The petition shall include:
 - 1. The afflicted person's name, address, date of birth and physical location or last known address. The petitioner may refer to the afflicted person by a pseudonym if specifically requested by the afflicted person.
 - 2. A statement containing the grounds and underlying facts demonstrating that the person is an afflicted person.
 - 3. A statement that the afflicted person has failed to comply with a voluntary treatment plan or an order to cooperate or has a history of noncompliance with an appropriate prescribed course of medication or other interventions.
 - 4. A statement containing the grounds and underlying facts demonstrating that the afflicted person presents a substantial danger to another person or to the community.

5. The least restrictive alternatives to court ordered examination, monitoring, treatment, isolation or quarantine that are appropriate or available.
 6. If the petitioner determines that the afflicted person's health is likely to deteriorate before a court hearing can take place, the petition shall include a statement containing the afflicted person's current clinical condition and a request for an immediate order from the court authorizing the administration of medically necessary treatment to preserve the afflicted person's medical condition before a hearing on the petition.
 7. The petition shall be accompanied by the affidavits from the person who conducted the investigation, and the petitioner. The affidavits shall detail the evidence that indicates that the person is an afflicted person and that explains why the afflicted person is a substantial danger to another person or to the community.
 8. The petition shall request the court to issue an immediate order authorizing the compulsory detention and continued detention of the afflicted person in a designated facility for supervised monitoring, treatment, isolation or quarantine pending a detention hearing on the petition for public health protection. This detention hearing shall be conducted within seven days after a petition for public health protection is filed in the court.
- c. The petitioner shall inform the court when the afflicted person's medical condition may require the court to adjust the conditions and circumstances to accommodate the afflicted person's condition.
 - d. Before the court has an opportunity to rule on the petition's merits, the court may order the immediate or continued detention of the afflicted person in an institution approved by the department, if the court determines that there is reasonable cause to believe that the afflicted person is likely to be a substantial danger to another person or to the community.
 - e. If the court orders that the afflicted person be immediately detained, the court shall issue orders necessary to provide for the apprehension, transportation and detention of the afflicted person pending the outcome of the detention hearing and shall provide notice of detention to the afflicted person's physician, or, if the afflicted person is a minor or an incapacitated person, the afflicted person's parent or guardian, or if none, the next of kin. The court shall appoint an attorney for the afflicted person if one has not been appointed.
 - f. If after reviewing the petition and supporting documents and other evidence the court determines that the petition and supporting documentation and evidence submitted to the court do not support a finding that the person is an afflicted person or is a substantial danger to another person or the community, the court shall issue a written order to release the person as soon as reasonably possible.
 - g. After a petition has been filed and before the hearing the petitioner or the medical director of the receiving institution, with the advice and consent of the department, determines that the person is not an afflicted person, the petitioner shall withdraw the petition and the petitioner

or the medical director of the receiving institution shall discharge the person as soon as reasonably possible.

- h. A detention hearing shall be held within seven business days after the petition is filed with the clerk of the court unless:
 - 1. The court determines for good cause shown that a continuance of the detention hearing is necessary in the interests of public health. For the purposes of this paragraph, "good cause" includes the unavailability of necessary witnesses or that additional time is necessary to receive and interpret laboratory test results.
 - 2. The afflicted person or, if a minor or incapacitated person, the afflicted person's parent or guardian, on consultation with an attorney, determines that it would be in the afflicted person's best interest to request a continuance for no longer than 30 days.
- i. The purpose of a detention hearing is to determine if the afflicted person has tuberculosis or other highly contagious or infectious disease. The burden of proof is on the petitioner to prove by clear and convincing evidence that detention is necessary because the person is an afflicted person and is a substantial danger to another person or to the community.
- j. At least three days before the court conducts the hearing on the petition or within a reasonable time after the appointment of a court appointed attorney, copies of the petition, affidavits in support of it, the notice of the hearing, the investigation reports, the afflicted person's medical records and copies of other exhibits shall be made available by the petitioner to the afflicted person or, if a minor or incapacitated person, the afflicted person's parent or guardian or that person's attorney for examination and reproduction.
- k. A person has the right to have an evaluation performed by an independent physician. This evaluation shall include a physical examination and laboratory analysis. If the afflicted person is unable to afford an examination the court shall appoint an independent evaluator acceptable to the afflicted person from a list of licensed physicians who are willing to accept court appointed evaluations. The afflicted person may require the independent physician who performed the evaluation to appear as a witness at a hearing conducted pursuant to this section.

Chapter 13, Article VIII.

Declaration of Public Health Emergencies

Sec. 13-210. Isolation and quarantine during a local emergency declaration or major disaster declaration

- a. During a declared local emergency declaration or major disaster declaration, the department must initiate an investigation if that agency has reasonable cause to believe that a highly contagious and fatal disease exists within its jurisdiction. Subject to the provisions of this

article, persons who have contracted the disease or who have been exposed to the disease may be subject to isolation and quarantine if the director determines that quarantine is the least restrictive means by which the public can be protected from transmission of the disease, due to the nature of the disease and available preventive measures, or refusal by an individual to accept less restrictive measures to prevent disease transmission.

- b. The department may, during the local emergency declaration or major disaster declaration declared by the President or the Council, do the following:
 - 1. Establish and maintain places of isolation and quarantine, which may include the residence of the person quarantined.
 - 2. Require isolation or quarantine of any person by the least restrictive means necessary to protect the public health. The department shall use all reasonable means to prevent the transmission of disease among the isolated or quarantined persons.
- c. The department shall ensure, to the extent possible, that the premises in which a person is isolated or quarantined is maintained in a safe and hygienic manner and is designed to minimize the likelihood of further transmission of disease or other harm to a person subject to isolation or quarantine. Adequate food, clothing, medication and other necessities, competent medical care and means of communicating with those in and outside these settings shall be made available.
- d. A person subject to isolation or quarantine shall comply with the department rules and orders, shall not go beyond the isolation or quarantine premises and shall not come in contact with any person not subject to isolation or quarantine other than a physician or other health care provider, department or local health authority or person authorized to enter an isolation or quarantine premises by the department or local health authority.
- e. Other than a person authorized by the department, a person shall not enter an isolation or quarantine premises. If, by reason of an unauthorized entry into an isolation or quarantine premises, the person poses a danger to public health, the department, or local health authority may place the person in isolation or quarantine.
- f. The department must terminate isolation or quarantine of a person if it determines that the isolation or quarantine is no longer necessary to protect the public health.

113-220. Due process for isolation and quarantine during a local emergency declaration or major disaster declaration

- a. The department may isolate or quarantine a person or group of persons through a written directive without first obtaining a written order from the court if any delay in the isolation or quarantine of the person would pose an immediate and serious threat to the public health. The directive shall:

1. Specify the identity of the person or persons subject to isolation or quarantine, the premises subject to isolation or quarantine, the date and time at which isolation or quarantine commences, the suspected highly contagious and fatal disease, if known, and that a local emergency declaration has been declared by the president or vice president.
 2. Be given to the person or persons to be isolated or quarantined. If the directive applies to groups of persons and it is impractical to provide individual copies, it may be posted in a conspicuous place in the isolation or quarantine premises.
- b. Within ten days after issuing the written directive, or when any delay in the isolation or quarantine of a person or group of persons will not pose an immediate and serious threat to the public health, the department shall file a petition for a court order authorizing the initial or continued isolation or quarantine of a person or group of persons. The petition shall specify the following:
1. The identity of the person or group of persons subject to isolation or quarantine.
 2. The premises subject to isolation or quarantine.
 3. The date and time at which isolation or quarantine commences.
 4. The suspected contagious disease, if known.
 5. A statement of compliance with the conditions and principles for isolation and quarantine.
 6. A statement of the basis on which isolation or quarantine is justified pursuant to this article.
- c. The petition must be accompanied by the sworn affidavit of department attesting to the facts asserted in the petition, together with any further information that may be relevant and material to the court's consideration.
- d. Notice to a person or group of persons identified in a petition must be completed within twenty-four hours after filing the petition.
- e. A hearing must be held on a petition filed pursuant to this section within five days after filing of the petition. In extraordinary circumstances and for good cause shown, the Community's Health and Human Services Department may apply to continue the hearing date on a petition for not more than ten days. If the court grants a continuance it must give due regard to the rights of the affected persons, the protection of the public's health, the severity of the emergency and the availability of necessary witnesses and evidence.
- f. The court shall grant the petition if, by a preponderance of the evidence, isolation or quarantine is shown to be reasonably necessary to protect the public health.

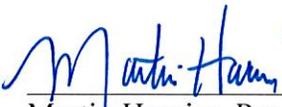
- g. A court order authorizing isolation or quarantine may do so for a period not to exceed thirty days. The order must:
 - 1. Identify the isolated or quarantined person or group of persons by name or shared or similar characteristics or circumstances.
 - 2. Specify factual findings warranting isolation or quarantine pursuant to this article, including any conditions necessary to ensure that isolation or quarantine is carried out within the stated purposes and restrictions of this article.
 - 3. Be served on an affected person or group of persons.
- h. Before an isolation or quarantine order expires, the department may move to continue the isolation or quarantine for an additional period not to exceed thirty days. The court shall grant the motion if, by a preponderance of the evidence, isolation or quarantine is shown to be reasonably necessary to protect the public health.
- i. A person or group of persons isolated or quarantined pursuant to this section may apply to the court for an order to show cause why the person or group of persons should not be released. The court must rule on the application to show cause within forty-eight hours after it is filed. If the court grants the application, the court must schedule a hearing on the order to show cause within twenty-four hours after it issues the order to show cause. The issuance of an order to show cause does not stay or enjoin an isolation or quarantine order.
- j. A person isolated or quarantined pursuant to this section may request a court hearing regarding the person's treatment and the conditions of the quarantine or isolation.
- k. On receiving a request for a hearing, the court must set a date for a hearing. The hearing must take place within ten days after the court receives the request. The request for a hearing does not alter the order of isolation or quarantine. If the court finds that the isolation or quarantine of the person or group of persons does not comply with the requirements of this section, the court may provide remedies appropriate to the circumstances of the local emergency declaration, the rights of the individual and in keeping with the provisions of this article.
- l. A record of the proceedings pursuant to this section shall be made and retained. If, because of a local emergency declaration or major disaster declaration declared, parties cannot personally appear before the court, the proceedings may be conducted by the authorized representatives of the parties and held by any means that allows all parties to fully participate.
- m. The court shall appoint counsel to represent a person or group of person who is subject to isolation or quarantine pursuant to this article and who is not otherwise represented by counsel. Representation by appointed counsel continues throughout the duration of the isolation or quarantine of the person or group of persons. The department or local health authority must provide adequate means of communication between the isolated or quarantined persons and their counsel.

- n. In any proceedings brought pursuant to this section, to promote the fair and efficient operation of justice and having given due regard to the rights of the affected persons, the protection of the public's health, the severity of the emergency and the availability of necessary witnesses and evidence, the court may order the consolidation of individual claims into groups of claims if:
1. The number of persons involved or to be affected is so large as to render individual participation impractical.
 2. There are questions of law or fact common to the individual claims or rights to be determined.
 3. The group claims or rights to be determined are typical of the affected person's claims or rights.
 4. The entire group will be adequately represented in the consolidation.

C E R T I F I C A T I O N

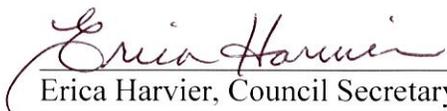
This Ordinance is hereby enacted pursuant to the authority contained in Article VII, Section 1 of the Constitution of the Salt River Pima-Maricopa Indian Community ratified by the Tribe, February 28, 1990, and approved by the Secretary of the Interior, March 19, 1990, and amended by the Tribe, February 27, 1996, and approved by the Secretary April 23, 1996, the foregoing Ordinance was adopted this 8th day of April, 2020, in a duly called meeting held by the Community Council in Salt River, Arizona at which a quorum of 9 members were present by a vote of 7 for; 2 opposed, 0 abstentions, and 0 excused.

SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY COUNCIL



Martin Harvier, President

ATTEST:


Erica Harvier, Council Secretary

