

## Chapter 13

### HEALTH AND SANITATION

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## ARTICLE I. IN GENERAL

### Sec. 13-1. Disposal of dead animals.

Owners of dead animals shall dispose of the carcasses by burial or burning.  
(Code 1976, § 8.1; Code 1981, § 13-1; Code 2012, § 13-1; Ord. No. SRO-402-2012, § 13-1, 5-30-2012)

### Sec. 13-2. Pollution of domestic water.

It shall be unlawful for any person to pollute any source of domestic waters, including but not limited to streams, springs and wells, by disposing of garbage, dead animals, refuse or by locating a privy within 50 feet of such domestic water.  
(Code 1976, § 8.2; Code 1981, § 13-2; Code 2012, § 13-2; Ord. No. SRO-402-2012, § 13-2, 5-30-2012)

### Sec. 13-3. Illegal dumping. (Criminal)

(a) Any person who shall dump any trash, garbage or refuse within the exterior boundaries of the Community, except for the designated landfill area, shall be deemed guilty of a Class C offense and upon conviction shall be subject to a fine of not less than \$100.00 or more than \$1,000.00 or to imprisonment not to exceed six months, or both, with costs.

(b) Any person who allows illegal dumping to occur on property they own in whole or part, occupy, or use shall be deemed guilty of a Class C Offense and upon conviction shall be subject to a fine of not less than \$100.00 or more than \$1,000.00 or to imprisonment not to exceed six months, or both, with costs.

(c) The Community Court is authorized to issue a garnishment order to recoup any fine or costs imposed upon any Community member landowner, allottee, or occupant found guilty of violating this section.  
(Code 1976, § 8.4; Code 1981, § 13-3; Code 2012, § 13-3; Ord. No. SRO-402-2012, § 13-3, 5-30-2012; Ord. No. SRO-509-2019, 6-5-2019)

### Sec. 13-4. Violations.

Any person who violates the provisions of this chapter for which no penalty is otherwise speci-

fied or interferes with the performance of official duty thereunder is guilty of an offense and, upon conviction thereof, shall be subject to a fine of \$30.00 or 30 days imprisonment, or both, with costs.

(Code 1976, § 8.3; Code 1981, § 13-4; Code 2012, § 13-4; Ord. No. SRO-402-2012, § 13-4, 5-30-2012)

### Sec. 13-5. Community landfill, disposal of dangerous substances.

(a) It shall be unlawful for any person to dispose of substances that pose a danger to human health or the environment in the Community landfill.

(b) For purposes of this section and for subsection (a) of this section, the term "dangerous substances" includes without limitation those substances defined as "hazardous" under federal environmental law, and "hot" loads that pose an imminent danger to combustion.

(c) It shall be unlawful for any person to dispose of sewage sludge or septic tank pumpings in the Community landfill.

(d) The Community landfill shall at all times post signs in conspicuous places along the fenced perimeter of the landfill advising the public of its prohibitions as set forth in this section regarding trespass, disposal of hazardous and hot materials, and disposal of sewage sludge and septic tank pumpings.

(Code 1981, § 13-5; Code 2012, § 13-5; Ord. No. SRO-154-92, § 2, 6-3-1992; Ord. No. SRO-402-2012, § 13-5, 5-30-2012; Ord. No. SRO-509-2019, 6-5-2019)

### Sec. 13-6. Collection and haulage of solid waste from commercial enterprises.

(a) *Policy.* It is the policy of the Community that the collection and haulage of solid waste from commercial enterprises within the Community be regulated so as to protect the members of the Community and others residing or visiting within its boundaries from any health or safety risk.

(b) *Unlawful acts.* It shall be unlawful for any person who is not a self-hauler to collect or haul solid waste from commercial enterprises located in the Community unless such person has a contract to perform those services with the Community.

(c) *Collection and haulage of solid waste.* The public works department shall be responsible for the collection and haulage of solid waste from commercial enterprises within the Community. The public works department shall contract with commercial enterprises located in the Community for the collection and haulage of their solid waste. The work under such contracts may be subcontracted by the public works department to a contractor(s) chosen by the public works department to collect and haul the solid waste. The prices charged by the public works department shall be competitive with prices charged for similar services in the cities of Scottsdale, Mesa and Tempe, and shall be uniform within the Community considering the haul distances and the contracts shall be such as are generally used in the industry.

(d) *Self-hauler.* Any commercial enterprise operating within the Community may collect and haul its own commercial waste.

(e) *Civil penalty.* The violation of subsection (c) of this section shall be a civil offense and each such violation may be punished by a fine of up to \$5,000.00 and costs.

(f) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Solid waste.*

- (1) The term "solid waste" means any garbage, trash, rubbish, refuse and other solid, liquid, semisolid or contained gaseous material.
  - (2) The term "solid waste" does not include domestic sewage or hazardous wastes.
- (Code 1981, § 13-6; Code 2012, § 13-6; Ord. No. SRO-188-95, §§ 1—3, 5—7, 11-2-1994; Ord. No. SRO-402-2012, § 13-6, 5-30-2012)

### **Sec. 13-7. Illegal dumping. (Civil)**

(a) It shall be unlawful for any person to dump any material, hazardous or not, within the Community outside of the Community landfill area at any time or to dispose of any material within the Community landfill other than during its regular business hours and pursuant to its current rules and regulations which permit proper disposal of materials.

(b) In addition to, or instead of, any other penalties herein, any person who engages in the act of illegal dumping is subject to a civil fine not to exceed \$5,000.00 in addition to any costs the Community incurs to address the illegal dumping.

(c) All vehicles seized and held as evidence shall be subject to towing and storage costs based on daily fee rates until such matter is resolved.

(d) The Community Court is authorized to issue a garnishment order to recoup any fine or costs imposed upon any Community member landowner, allottee, or occupant found in violation of this section.

(e) The burden of proof for this civil violation is preponderance of the evidence.  
(Code 1981, § 13-7; Code 2012, § 13-7; Ord. No. SRO-273-2000, 9-27-2000; Ord. No. SRO-402-2012, § 13-7, 5-30-2012; Ord. No. SRO-509-2019, 6-5-2019)

### **Sec. 13-8. Impoundment; possible forfeiture of vehicles used in illegal dumping.**

(a) *Impoundment of vehicle; notification of owner.*

- (1) Any vehicle or trailer used in the illegal dumping of materials on the Community shall be impounded by law enforcement officers of the Community police department and delivered to the police chief for designation of proper storage.
- (2) Upon delivery of impounded vehicles and trailers to a place of storage, the Community civil advocate shall be immediately notified.

- (3) Within five business days of the date of impoundment, a notice of impoundment and possible forfeiture by certified mail, return receipt requested, shall be sent by the civil advocate to the registered owner of the vehicle informing such owner of the time and place of a hearing to determine whether the vehicle was operated in violation of section 13-7(a) and if any damages resulted from such operation, and also, of the possible forfeiture of the vehicle. Notice shall be served by the following methods:
    - a. Upon an owner or claimant, whose right, title or interest is of record in the division of motor vehicles of the state in which the vehicle is licensed, by mailing a copy of the notice by registered mail to the address on the records of the division of motor vehicles of said state.
    - b. Upon an owner or claimant, whose name and address are known, by mailing a copy of the notice by registered mail to his or her last known address.
    - c. Upon an owner or claimant, whose address is unknown but who is believed to have an interest in the vehicle, by publication in one issue of a newspaper of general circulation in Maricopa County, Arizona.
  - (4) The civil advocate shall file a copy of the notice of impoundment and possible forfeiture with the Community court and records of the notice shall be kept within the offices of the police chief and staff attorney.
- (b) *Owner's answer to notice.*
- (1) Within 30 days after the mailing or publication of the notice of impoundment and possible forfeiture, the owner of the impounded vehicle may file in the Community court, a verified answer to the allegations contained in the notice of impoundment and possible forfeiture.
  - (2) If a verified answer is filed, the court shall, without the requirement of further pleadings such as a request for a hearing, set a hearing not less than five business days and not more than ten business days after the answer is filed.
  - (3) If a verified answer to the notice of impoundment and possible forfeiture is not filed within 30 days, the court shall, without the requirement of further pleadings such as a request for hearing, set a time and place to hear evidence upon the claim of illegal use of the vehicle, order appropriate relief, and upon motion, shall order the vehicle forfeited to the Community, or the following:
    - a. If no claimant exists and the Community wishes to retain the vehicle for its own official use it may do so; or
    - b. If such vehicle is not to be retained it shall be disposed of in the manner pursuant to subsection (d)(1) of this section.
- (c) *Hearing.*
- (1) At the hearing, the court may, at its discretion, set a bond that appropriately considers the potential damages, any mitigating elements of the case and individual circumstances.
  - (2) At the hearing, an owner or claimant who has a verified answer on file may show by clear and convincing evidence that the vehicle was not used in the illegal dumping of materials on the Community.
  - (3) At the hearing, an owner who has a verified answer on file may show by clear and convincing evidence that he or she had no knowledge of and should not have known that the vehicle would be used in the illegal dumping of materials on the Community.
  - (4) A claimant of any right, title or interest in the vehicle may prove:
    - a. A lien, mortgage or conditional sales contract to be authentic;

- b. The right, title or interest was created after a reasonable investigation of the moral responsibility, character and reputation of the purchaser; and
  - c. There was absolutely no knowledge that the vehicle was being or was to be used for the purpose charged.
- (5) However, the following persons or entities are required to prove only the conditions in subsections (c)(4)a and c of this section:
- a. A person or entity who has a lien, dependent upon possession, for which he or she is legally entitled compensation for making repairs or performing labor upon and furnishing supplies and materials for, and for storage, repairs or safekeeping of any vehicle;
  - b. A person or entity doing business under any law of any state or the United States relating to banks, trust companies, building and loan associates, and loan companies, and credit unions or licensed pawnbrokers or money lenders; or
  - c. A person regularly engaged in the business of selling vehicles or purchasing conditional sales contracts on vehicles.
- (6) A claimant may show that the legal right, title or interest is vested solely in the claimant, and that any disposition or sale of forfeited property could result in irreparable harm, injury or loss to that party or would have unfair and/or unwarranted consequences to that party.
- (7) Upon the hearing, if the court determines that the vehicle was not used in illegal dumping, or that the vehicle was used in illegal dumping but the damages have been fully mitigated and/or compensated, the court shall order the vehicle released to the owner.
- (8) If the court determines that the vehicle was used in the act of illegal dumping which resulted in uncompensated damages, the court may enter its judgment determining such illegal dumping, the amount of damages caused, and if appropriate, forfeiture of said vehicle.
- (9) A copy of the judgment shall be forwarded to the owner of the vehicle within three business days of issuance of that judgment.
- (10) If the court determines that there was illegal dumping, but forfeiture was not ordered, the court will not release the bond but shall order the Community police department to hold the vehicle, until the owner pays to the court, for the benefit of the Community, the amount of damages the court has determined was caused by the illegal use of the vehicle.
- (d) *Sale of vehicle for recovery of damages.*
- (1) Any decision by the court under this section rendering a judgment of illegal dumping and damages shall provide that unless payment of damages is made within 30 days after the entry of judgment, the vehicle shall be sold at public auction after reasonable notice by certified mail to the owner of the vehicle of said sale.
  - (2) Upon payment of damages in full and within ten days of receipt, the vehicle shall be returned to the owner.
  - (3) Upon sale of the vehicle, the court clerk shall pay the proceeds of the sale necessary for the satisfaction of the judgment.
  - (4) Any excess over such judgment shall be paid:
    - a. First, to satisfy the expenses incurred by the court and the Community;
    - b. Second, to pay off any towing, storage and other impoundment costs; and
    - c. Third, to the owner of the vehicle.
- (e) *Forfeiture of vehicles used in illegal dumping.*
- (1) If after a proper hearing pursuant to subsection (c) of this section, judgment is



entered determining violation of section 13-7(a) and making a finding of one or more conditions in subsection (e)(3) of this section, the vehicle found to be used in the illegal dumping may be forfeited to the Community.

- (2) If forfeiture is ordered, the interest of the legal owner of record who knew or should have known the vehicle would be used in the illegal dumping of materials on the Community shall be forfeited to the Community.
- (3) In order for a vehicle to be forfeited the court must find one or more of the following circumstances by clear and convincing evidence:
  - a. The vehicle was used in discarding of materials or dangerous substances that pose a hazardous condition to human health and/or the environment.
  - b. For the purposes of this section, the term "dangerous substances" includes without limitation those substances defined as "hazardous" under Community or federal environmental law and "hot" loads that pose an imminent danger to combustion; or as follows:
    1. The vehicle was used to discard materials equaling one cubic yards or more;
    2. The vehicle was used to discard materials that pose serious danger to children; or
    3. An offender has a prior record of involvement in illegal dumping.

(f) *Authority to compromise.*

- (1) The Community shall make due provisions and take the necessary action to protect the rights of innocent or nonliable persons, as is consistent with this chapter.
- (2) At any time, the Community is authorized to grant requests for mitigation or remis-

sion of forfeiture and restore forfeited property to innocent or guiltless parties.

- (3) If the Community grants such a request, it shall inform the court, through its civil advocate, of the settlement and the court shall issue an order consistent with the action taken by the Community.

(g) *Authority to implement reward system.* The Community may set up a system to award compensation to persons providing information resulting in forfeiture of property used in the act of illegal dumping.

(Code 1981, § 13-8; Code 2012, § 13-8; Ord. No. SRO-273-2000, 9-27-2000; Ord. No. SRO-402-2012, § 13-8, 5-30-2012; Ord. No. SRO-509-2019, 6-5-2019)

**Secs. 13-9—13-34. Reserved.**

## ARTICLE II. ALCOHOLISM

### Sec. 13-35. Definitions.

For the purposes of this article, unless the context requires otherwise, the following terms shall have the meanings ascribed to them herein:

*Alcoholic* means a person who habitually lacks self-control with respect to the use of alcoholic beverages to the extent that his or her health is substantially impaired or endangered, or his or her social or economic functions are substantially disrupted.

*Evaluation* means multidisciplinary professional analysis of a person's medical, psychological, social, financial and legal conditions. Persons providing evaluation services shall be properly qualified professionals and may be full-time employees of the tribal treatment facility providing evaluation services or may be part-time employees or may be employed on a contractual basis or may be volunteers.

*Incapacitated by alcohol* means that a person, as a result of the use of alcohol, is unconscious or has his or her judgment otherwise so impaired that he or she is incapable of realizing and making a rational decision with respect to his or her need for evaluation and treatment.

*Intoxicated person* means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol.

*Treatment* means the broad range of emergency, outpatient, intermediate and inpatient services and care, including diagnostic evaluation, medical, psychiatric, physiological and social service care, vocational rehabilitation and career counseling, which may be extended to alcoholics and intoxicated persons.

*Tribal alcoholism treatment center* means the initial treatment center for a person who is intoxicated or who is incapacitated by alcohol to receive initial evaluation and processing for assignment for further evaluation or into a treatment program.

(Code 1976, § 8.21; Code 1981, § 13-21; Code 2012, § 13-21; Ord. No. SRO-23-74, 2-27-1974; Ord. No. SRO-402-2012, § 13-21, 5-30-2012)

### **Sec. 13-36. Program established.**

(a) *Created; purpose.* The Community alcoholism program shall develop, encourage and foster plans and programs for the prevention of alcoholism and treatment of alcoholics and intoxicated persons in cooperation with federal, state, tribal and private agencies, organizations and individuals and provide technical assistance and consultation services for these purposes.

(b) *Standards.* The Community alcoholism program shall be guided by the following standards:

- (1) An intoxicated person or persons incapacitated by alcohol, who voluntarily seeks treatment or who is transported to the tribal alcoholic treatment center, shall receive an initial evaluation.
- (2) A patient shall be initially assigned or transferred to outpatient treatment or intermediate treatment unless he is found to require inpatient treatment.
- (3) A person shall not be denied treatment solely because he or she has withdrawn from treatment against medical advice on a prior occasion or because he or she has relapsed after earlier treatment.

(4) An individual treatment plan shall be prepared and maintained on a current basis for each patient.

(5) Provisions shall be made for a continuum or coordinated treatment services, so that a person who leaves the facility or other form of treatment will have available other appropriate treatment.

(c) *Duties.* The Community alcoholism program shall:

- (1) Enlist the assistance of all federal, state, tribal and private agencies, organizations and individuals engaged in the prevention of alcoholism and treatment of alcoholics and intoxicated persons at a tribal treatment facility.
- (2) Cooperate with the Community court and the tribal police in establishing and conducting programs to provide treatment for alcoholics in penal institutions and alcoholics on parole from penal institutions at tribal treatment facilities.
- (3) Cooperate with the schools, police, courts and other agencies, organizations and individuals in establishing programs for the prevention of alcoholism and treatment of alcoholics and intoxicated persons and in preparing curriculum materials thereon for use at all levels of school education.
- (4) Specify uniform methods of keeping statistical information by tribal treatment facilities and collect and make available relevant statistical information including the number of persons treated, the frequency of admission, and readmission and frequency and duration of treatment.
- (5) Cooperate with the Community court in establishing and conducting programs designed to deal with the problem of persons operating motor vehicles while intoxicated.

(Code 1976, § 8.22; Code 1981, § 13-22; Code 2012, § 13-22; Ord. No. SRO-23-74, 2-27-1974; Ord. No. SRO-402-2012, § 13-22, 5-30-2012)



**Sec. 13-37. Treatment of alcoholics.**

(a) An alcoholic may apply for evaluation and treatment directly to any tribal treatment facility. If the applicant is a minor or incompetent person, either he or she or a parent, legal guardian or other legal representative shall make the application for evaluation and treatment.

(b) Subject to rules adopted by the Community alcoholism program, the administrator in charge of a tribal treatment facility may determine who shall be admitted for evaluation and treatment. No person shall be refused admission to a tribal treatment facility because of inability to pay.

(c) If a patient receiving inpatient care leaves a tribal treatment facility, he or she shall be encouraged to consent to appropriate outpatient treatment or intermediate treatment. (Code 1976, § 8.23; Code 1981, § 13-23; Code 2012, § 13-23; Ord. No. SRO-23-74, 2-27-1974; Ord. No. SRO-402-2012, § 13-23, 5-30-2012)

**Sec. 13-38. Treatment and services for intoxicated persons and persons incapacitated by alcohol.**

(a) *Voluntary treatment.* An intoxicated person may come voluntarily to a tribal alcoholism treatment center for emergency alcoholism treatment.

(b) *Immediate treatment.* A person who voluntarily comes or is brought to a tribal alcoholism treatment center and is in need of immediate medical treatment shall be examined by a licensed physician as soon as possible and may be admitted as a patient or referred to another tribal treatment facility or program.

(c) *Transportation to home or shelter.* A person who is not admitted to a tribal alcoholism treatment center and who is not referred to another treatment facility or program and who has no funds may be taken to his or her home by personnel at the tribal alcoholism treatment center. If he or she has no home, the tribal alcoholism treatment center personnel shall assist him or her in obtaining shelter.

(d) *Notification of next of kin.* If the patient is admitted to a tribal alcoholism treatment center for initial evaluation and processing, the patient's family or next of kin shall be notified as promptly as possible. If an adult patient who is not incapacitated by alcohol requests that there be no notification of his or her family or relatives, his or her request shall be complied with.

(e) *Further evaluation or treatment.* If the administrator in charge of the tribal alcoholism treatment center determines that it is for the patient's benefit, the patient shall be encouraged to agree to assignment for further evaluation or to agree to assignment to a treatment program. (Code 1976, § 8.24; Code 1981, § 13-24; Code 2012, § 13-24; Ord. No. SRO-23-74, 2-27-1974; Ord. No. SRO-402-2012, § 13-24, 5-30-2012)

**Sec. 13-39. Emergency admission.**

(a) A person who is intoxicated in public:

- (1) Who has threatened, attempted to inflict physical harm, or inflict physical harm upon himself, herself or another, or who is likely to inflict physical harm on himself, herself or another unless admitted; or
- (2) Who is incapacitated by alcohol;

may be brought by a peace officer or by another person to a tribal alcoholism treatment center for emergency evaluation and treatment.

(b) A peace officer who has reasonable cause to believe that a person is intoxicated in a public place, and such person is or may be a detriment to himself, herself or others, may transport such person to a tribal alcoholism treatment center. No unnecessary or unreasonable force shall be used in transporting such person and the person shall not be subjected to any greater restraint than is necessary.

(c) An intoxicated person received or accepted by a tribal alcoholism treatment center shall not be subject to unnecessary or unreasonable force. The tribal alcoholism treatment center shall use such methods and exercise such restraint of the intoxicated person as is reasonably necessary for the safety of such person and others and consistent with the provisions of subsection (d) of this section.

(d) The administrator in charge of a tribal alcoholism treatment center shall discharge any person admitted pursuant to this section not more than 24 hours after the person requests to be discharged or after the administrator on advice of the medical staff determines that the grounds for admission no longer exist. (Code 1976, § 8.25; Code 1981, § 13-25; Code 2012, § 13-25; Ord. No. SRO-23-74, 2-27-1974; Ord. No. SRO-402-2012, § 13-25, 5-30-2012)

**Sec. 13-40. Evaluation and treatment of persons charged with crime.**

(a) The Community court may order an evaluation and treatment at a tribal treatment facility of a person who is brought before the court and charged with a crime if:

- (1) It appears that such person is an alcoholic; and
- (2) Such person, after being advised of his or her privilege to undergo evaluation and treatment, chooses the evaluation and treatment procedures.

The court shall in no event order the person to undergo treatment and evaluation for in excess of 30 days.

(b) The court shall fully apprise the person charged with the crime of the options available and the consequences which may occur.

(c) The person charged with the crime has the right to legal counsel at proceedings held pursuant to this section.

(d) If the court issues an order for evaluation and treatment as provided in this section, proceedings on the criminal charge or charges then pending in the court from which the order for evaluation and treatment issued shall be suspended until such time as the evaluation and treatment of the defendant and the subsequent detention of the defendant, if any, are completed. Upon completion of the evaluation and treatment and the detention, if any, the defendant shall be returned to the court where the order for evaluation and treatment was made and proceedings on the criminal charge or charges shall be resumed or dismissed. Delay in bringing the defendant to trial caused by treatment and

evaluation under this section shall not be the basis for a claim by the defendant that he or she was denied a speedy trial.

(e) The cost of evaluation and treatment of an indigent patient treated pursuant to court order shall be a charge to the Community. (Code 1976, § 8.26; Code 1981, § 13-26; Code 2012, § 13-26; Ord. No. SRO-23-74, 2-27-1974; Ord. No. SRO-402-2012, § 13-26, 5-30-2012)

**Sec. 13-41. Payment for treatment; financial ability of patient or guardian.**

(a) A patient being treated by the tribal treatment facility, or the estate of the patient, or a person obligated to provide the cost of the evaluation and treatment and having sufficient financial ability, is liable to the tribal treatment facility for the costs of evaluation and treatment of the patient in accordance with the rates established by the Community alcoholism program.

(b) The Community alcoholism program shall adopt rules governing financial ability that take into consideration the income, savings and other personal and real property of the person required to pay as well as any support being furnished by him or her to any person whom he or she may be required by law to support.

(c) Each tribal treatment facility shall furnish the Community alcoholism program with such information as it requires to enable it to establish and maintain a cost reporting system of the costs of the evaluation and treatment. Each tribal treatment facility shall ensure that records are maintained containing such information and in such form as the Community alcoholism program shall require for the purposes of this section. The Community alcoholism program shall prepare and adopt patient fee schedules to be used by the tribal treatment facility for services rendered to each patient afflicted with alcoholism. In preparing such patient fee schedules, the Community alcoholism program shall take into account the existing charges for available services. The Community alcoholism program is not prohibited

from including the amount of expenditures for capital outlay in its determination of the fee schedules.

(Code 1976, § 8.27; Code 1981, § 13-27; Code 2012, § 13-27; Ord. No. SRO-23-74, 2-27-1974; Ord. No. SRO-402-2012, § 13-27, 5-30-2012)

**Sec. 13-42. Immunity from criminal or civil liability.**

A peace officer, administrator in charge of a tribal treatment facility or any person who in good faith acts in compliance with this article shall not be criminally or civilly liable.

(Code 1976, § 8.28; Code 1981, § 13-28; Code 2012, § 13-28; Ord. No. SRO-23-74, 2-27-1974; Ord. No. SRO-402-2012, § 13-28, 5-30-2012)

**Secs. 13-43—13-72. Reserved.**

**ARTICLE III. RESERVED\***

**Secs. 13-73—13-97. Reserved.**

**ARTICLE IV. PESTICIDES**

**Sec. 13-98. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Arizona Statutes* means articles 5, 6 and 6.1 of chapter 2, title 3 of Arizona Revised Statutes (A.R.S. §§ 3-341 through 3-383), as amended and as they may be amended from time to time hereafter. Reference in this article to Arizona statutes shall be limited to the stated articles but it shall be deemed to be reference to them as they shall have been amended as of the time of application of the reference.

*Community* means the Salt River Pima-Maricopa Indian Community as established, exist-

**\*Editor's note**—Ord. No. SRO-517-2020, adopted April 8, 2020, repealed Art. III, §§ 13-73—13-77, which pertained to tuberculosis and derived from Code 1981, §§ 13-41—13-45; Code 2012, §§ 13-41—13-45; Ord. No. SRO-402-2012, §§ 13-41—13-45, adopted May 30, 2012; and Ord. No. SRO-52-78, §§ 1—5, adopted Feb. 15, 1978.

ing and geographically defined under the laws of the United States, encompassing all territory within its exterior boundaries as now or hereafter prescribed or ascertained, including tribal and allotted lands, roads, waters and rights-of-way. For purposes of any restriction, regulation, requirement, control or prohibition of or upon the production, processing transportation, handling, storage, application or other use or disposal of pesticides pursuant to this article and the pesticide control programs, references herein and in the rules and regulations of the director, to the term "within the Community" include the air space both over the surface of the Community and in such proximity to it that any pesticide released in such air space, whether or not intentionally, is deposited or reasonably could be expected to drift or otherwise to be deposited upon land, plants, buildings, animals or water upon the surface of the earth within the exterior boundaries of the reservation.

*Director* means the director of the department of planning and land management of the Community.

*FEPCA* means the Federal Environmental Pesticide Control Act of 1972, Public Law 92-516, section 2, A.R.S. §§ 86-975 et seq., 7 USC 136 et seq., as amended and as it may be amended from time to time hereafter. Reference in this article to FEPCA shall be deemed to be reference to FEPCA as it shall have been amended as of the time of application of the reference.

*Person* means any individual, partnership, association, corporation or any organized group of persons whether incorporated or not, including a person acting in a fiduciary or representative capacity, and further including any governmental agency.

*Pesticide.*

- (1) The term "pesticide" means any substance or mixture of substances intended to be used for:
  - a. Preventing, destroying, repelling or mitigating any pest;
  - b. Defoliating or desiccating any plants; or

- c. Accelerating or retarding the rate of growth or rate of maturation, or otherwise altering the behavior of plants or the produce thereof.

- (2) The term "pesticide" does not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments. Any substance or mixture of substances defined or designated as or determined to be a pesticide or a plant regulator pursuant to FEPCA or state statutes shall be a pesticide pursuant to this article.

*Pests* means, for all purposes of this article, all things included within the definition of that term in FEPCA and Arizona statutes.

*Restricted pesticide* means any pesticide designated as such by the director upon a determination that it is or may be so toxic, hazardous or otherwise detrimental to humans, or to their environment, animals or crops, that particular provisions should be made applicable to its transportation, handling or application in order to adequately protect the public health, safety and welfare. Any pesticide defined or classified for restricted use, or for both restricted use and general use, pursuant to FEPCA or Arizona statutes shall be a restricted pesticide pursuant to this article.

(Code 1981, § 13-51; Code 2012, § 13-51; Ord. No. SRO-60-79, § 2, 8-29-1979; Ord. No. SRO-402-2012, § 13-51, 5-30-2012)

#### **Sec. 13-99. Policy adopted.**

The Community Council declares it to be the policy of the Community that:

- (1) The economic welfare of the Community and its members is enhanced by the use and development of agricultural lands within the Community;
- (2) The use of pesticides upon such agricultural lands is controlled so as to protect the health, welfare and safety of members of the Community; and

- (3) The Community has the responsibility and capability of controlling and regulating the use of pesticides upon agricultural lands within the Community.

(Code 1981, § 13-52; Code 2012, § 13-52; Ord. No. SRO-60-79, § 1, 8-29-1979; Ord. No. SRO-402-2012, § 13-52, 5-30-2012)

#### **Sec. 13-100. Enforcement of article and regulations.**

(a) *Director designated to enforce article.* The director of the department of planning and land management of the Community shall through that department enforce this article and the regulations adopted pursuant to it.

(b) *Functions.* The director shall adopt and implement a pesticide control program, and rules and regulations pursuant thereto, and shall enforce this article, that program and those rules and regulations to protect the health, safety and welfare of all residents of the Community against adverse effects of the transportation, handling and application of pesticides within the Community. In recognition by the Community Council that technical and scientific aspects of pesticides and their transportation, handling and application are subject continuously to new discoveries, modifications and requirements which cannot be adequately provided for specifically by an ordinance, the director is authorized and directed to utilize all reasonably available resources and services to regularly monitor such developments, and by rules and regulations to adopt and impose such restrictions, requirements, controls and prohibitions upon transportation, handling and application of pesticides within the Community as, considering all reasonably available and material data and information, appear technically and scientifically reasonable for the protection of the public health, safety and welfare.

(c) *Authority.* The authority of the director shall include but it shall not be limited necessarily to the following procedures and undertakings, as may be necessary reasonable or appropriate for the protection of public health, safety and welfare, and to prevent harm to desirable plants and animals and the environment:

- (1) To designate restricted pesticides.



- (2) To restrict, regulate or prohibit the transportation, handling and application of restricted pesticides within the Community.
  - (3) To require, restrict, regulate or prohibit the use of designated facilities, equipment, materials and methods for transportation, handling and application of restricted pesticides within the Community.
  - (4) To enter in a lawful manner any public or private premises within the Community to observe or inspect any stores of any pesticides and any apparatus, aircraft vehicle, equipment, supplies, materials, storage and handling areas and facilities, disposal sites and devices which are used or intended for use for production, processing, transportation, handling, storage, application and other use and disposal of restricted pesticides.
  - (5) To define and designate geographical areas, and times and circumstances, where or when, within the Community, the transportation, handling or application of restricted pesticides shall be restricted, regulated or prohibited.
  - (6) To require, and to issue or approve, certifications, permits and licenses for transportation or application of restricted pesticides within the Community.
  - (7) To issue, promulgate and enforce rules, regulations, orders and directives to implement this article and the pesticide control program. Such rules, regulations, orders and directives may include adoption or incorporation of laws, rules, regulations, orders, directives or other requirements prescribed pursuant to authority of the United States of America or of the State of Arizona with respect to pesticides.
  - (8) To impose or assess civil fines and penalties for violation of this article, and rules, regulations, orders, directives, certificates, licenses and permits issued pursuant hereto, not to exceed \$150.00 for each violation.
  - (9) To obtain advice and assistance of federal, state, county and municipal government agencies, and private agencies, and persons with technical expertise, in the adoption and implementation of a pesticide control program; to coordinate activities and cooperate with such other governmental agencies having similar or related responsibilities within their respective jurisdictions; and to utilize the Community court to enforce the pesticide control program, the provisions of this article, the rules and regulations adopted pursuant to this article, and orders and directives issued pursuant thereto. The director may recommend that the Community enter into agreements with such other governmental agencies providing for uniformity, coordination and cooperation in regulations and control of restricted pesticides.
  - (10) To designate authorized representatives of the director and to delegate to them authority to act on behalf of the director in the conduct of inspections, observations, inquiries, and enforcement of this article, the pesticide control program, rules and regulations adopted by the director, and orders and directives issued by him or her; and such representatives may include employees, agents and representatives of federal, state, county and municipal government agencies.
- (d) *Publication of rules, regulations, etc.* Prior to the time that any rule, regulation, order or directive is effective, it shall have been published one time in a newspaper of general circulation within or adjoining the Community and ten days shall have elapsed from the date of publication during which period of time comments concerning the proposed rule, regulation, order or directive may be made to the director, and the director, on the basis of such comments, may modify the rule, regulation, order or directive.  
(Code 1981, § 13-53; Code 2012, § 13-53; Ord. No. SRO-60-79, § 3, 8-29-1979; Ord. No. SRO-402-2012, § 13-53, 5-30-2012)



### **Sec. 13-101. Certificates, permits and licenses.**

(a) *Certain activities requiring permit under FEPCA require permit.* No person who is or would be required to have any certificate, permit or license issued pursuant to FEPCA or issued pursuant to any administrative rules, regulations, orders or directives issued pursuant thereto, to authorize that person to transport, handle or apply any pesticide or pesticides within the State of Arizona, shall conduct such activity within the Community without such certificate, license or permit.

(b) *Applicators of restricted pesticides require license.* In addition to the requirement of subsection (a) of this section, no person who would be a commercial applicator or private applicator of pesticides within the definitions and meanings of FEPCA and Arizona statutes shall apply or otherwise use, or supervise the application or other usage of any restricted pesticide within the Community without a license then currently in effect issued by the director. No such license shall be issued by the director to any person who does not have each certificate, license and permit required by FEPCA to authorize that person to conduct or supervise such application or other usage within the State of Arizona. Revocation, suspension or expiration or other termination of any such federal authorization (while such authorization continues to be required for conduct of the specified activity pursuant to federal law, rule, regulation, order or directive, as applicable) shall constitute automatic cancellation of the license issued by the director.

- (1) Application for such license shall be in such form as is prescribed by the director, to include such information and to be accompanied by such supporting data and verification of qualifications as may be required by the director.
- (2) Issuance of such a license shall be dependent upon the applicant demonstrating to or otherwise satisfying the director, or his or her designated representative, that the applicant:
  - a. Is competent with respect to the application, use and handling of restricted pesticides;

- b. Is familiar with the nature and characteristics of them, and the dangers inherent in them and which may result from their application, use and handling;
- c. Is knowledgeable about, and able and willing to take appropriate precautions to protect the public health, safety, and welfare;
- d. Has suitable equipment, in safe and proper operating condition, for such application or other usage, with trained, reliable and responsible operators, as appropriate;
- e. Has not demonstrated lack of reasonable care and responsibility in prior processing, transportation, handling, storage, application or other usage, or disposal of pesticides within the Community or elsewhere.

The demonstration or other satisfaction of the requirements set forth in this subsection (2) may be by oral or written examination, satisfactory completion of training courses, actual field operation or demonstration, questionnaires, reports from other agencies or persons, reliance upon federal and state certifications and licenses, or any combination of all or any of the requirements set forth in this subsection (2); or such other appropriate means which may be adopted by the director.

- (3) Any such license issued by the director may be made subject to any reasonable qualifications, conditions, restrictions and limitations deemed to be appropriate by the director.
- (4) Before issuing such a license, the director shall require proof of financial responsibility consisting either of a deposit of money, liability insurance, surety bond or certified check protecting persons, and those claiming under them, who may suffer death, injury, illness or property damage as a result of the operations of the applicant. The director shall not accept any bond of liability insurance

except from companies authorized to do business in the State of Arizona. The amount of the deposit, insurance or bond, unless a greater amount is specified by the director, shall be \$100,000.00 for property damage, personal death, injury or illness, public liability and drift insurance, each separately, and it shall be maintained in not less than that sum at all times during the licensing period. Insurance shall be written in a form acceptable to the director and it shall be evidenced by certificates delivered to the director. Each policy by appropriate endorsement or other provisions shall provide for written notice to the director at least ten days before any cancellation or material change thereof. The license of an applicator who permits the security to fall below the required sum shall be suspended by the director and it shall remain suspended until the security meets the minimum financial requirements. The director may increase the amount of required deposit, insurance, surety bond or other security at any time upon 15 days' notice to the holder of a license.

- (5) A license may be issued by the director pursuant to subsection (b) of this section for any period not to exceed one calendar year, or the remaining portion of the year for which issued. It may be renewed annually upon application to the director and satisfaction of all qualifications and prerequisites therefor.
- (6) There shall be a fee charged for the issuance and each annual renewal of such a license, and an additional fee charge for the reactivation of any such license which is suspended for any reason. The director shall establish from time to time, an applicable fee schedule by regulations pursuant to section 13-100(c)(7). All such fees shall be submitted through the director and payable to the Community.

(c) *Licenses for other activities may be required.* The director may require such other certificates, licenses and permits as he or she deems appropri-

ate from time to time as a condition to the transportation, handling or application of restricted pesticides within the Community. Such authorizations may be based upon such criteria, qualification and conditions as may be prescribed by the director in fulfillment of his or her responsibility set forth in sections 13-99 and 13-100. He or she may charge annual fees for issuance and renewals of such authorizations in accordance with a schedule of fees to be established from time to time, by the director, by regulation pursuant to hereof, which fees shall be submitted through the director and payable to the Community.

(d) *Alteration, modification of requirements.* The director from time to time may alter, modify, enlarge or increase the requirements, conditions, restrictions and limitations imposed upon any person holding any certificate, license or permit issued by the director, as such change reasonably appears necessary or desirable to the director to protect the public health, safety or welfare.

(e) *Suspension or cancellation.* In addition to all other remedies hereunder and at law, the director may suspend or cancel any certificate, license or permit issued upon a determination by the director that the holder thereof has violated or failed to comply with any applicable term, condition or provision of the certificate, license or permit, this article, any rule, regulation, order or directive pursuant hereto, or FEPCA or Arizona statutes, or rule, regulation, order, directive, certificate, license or permit issued pursuant thereto; or upon a determination by the director that the holder is operating within the Community or elsewhere in a faulty, careless or negligent manner, or has made false, inaccurate or incomplete reports or representations concerning pesticide operations or upon application for a certificate, license or permit hereunder, or is operating with improper or unsafe equipment or without adequate competent and responsible personnel. Such suspension or cancellation shall be upon written notice, and opportunity for hearing before the director not less than five days after notice; unless the director determines that an emergency situation exists, in which

event there shall be immediate suspension upon notice, to be followed by such a hearing within five days.

(Code 1981, § 13-54; Code 2012, § 13-54; Ord. No. SRO-60-79, § 5, 8-29-1979; Ord. No. SRO-402-2012, § 13-54, 5-30-2012)

#### **Sec. 13-102. Records and reports.**

Each person who applies or otherwise uses restricted pesticides pursuant to certificate, license or permit issued pursuant hereto shall keep a record of each property treated and, upon request by the director, shall furnish copies of said records to the director. Such records shall be kept for a period of two years and they shall contain the name and address of the owner and exact location of the property treated; the crop treated; the pest or pests involved; the name, type and strength of pesticide used; the name and address of the person or firm where the pesticide was purchased, the persons applying the pesticide; the date, month, year and time of day of application; the direction and estimated velocity of the wind at the time of application and a description of the principal equipment used therefor; the person or persons who disposed of the pesticide containers, the type of container, and the manner and location in which the containers were disposed of.

(Code 1981, § 13-55; Code 2012, § 13-55; Ord. No. SRO-60-79, § 6, 8-29-1979; Ord. No. SRO-402-2012, § 13-55, 5-30-2012)

#### **Sec. 13-103. Production, processing, distribution, sale, etc., prohibited.**

No person may produce, process, manufacture, distribute, sell or offer to sell or dispose of any pesticide or pesticides within the Community.

(Code 1981, § 13-56; Code 2012, § 13-56; Ord. No. SRO-60-79, § 4, 8-29-1979; Ord. No. SRO-402-2012, § 13-56, 5-30-2012)

#### **Sec. 13-104. Federally prohibited activities prohibited.**

No person shall transport, handle or apply any pesticide within the Community if such activity or the manner of its conduct under the

circumstances would be prohibited by FEPCA or rules, regulations, orders or directives issued pursuant thereto, if it occurred outside the Community and within the State of Arizona.

(Code 1981, § 13-57; Code 2012, § 13-57; Ord. No. SRO-60-79, § 9, 8-29-1979; Ord. No. SRO-402-2012, § 13-57, 5-30-2012)

#### **Sec. 13-105. Only registered pesticide use allowed.**

No person shall transport, apply, or otherwise use any pesticide within the Community unless that pesticide is properly and currently registered pursuant to both the FEPCA and Arizona statutes; however, if an unregistered pesticide is subject to an experimental use permit issued pursuant to the FEPCA and Arizona statutes, the director may authorize its experimental use by the permittee within the Community in strict compliance with the terms of the permit and such additional restrictions or requirements as may be imposed by the director. Any other exemptions from registration of pesticides pursuant to the FEPCA or Arizona statutes shall be inapplicable within the Community.

(Code 1981, § 13-58; Code 2012, § 13-58; Ord. No. SRO-60-79, § 7, 8-29-1979; Ord. No. SRO-402-2012, § 13-58, 5-30-2012)

#### **Sec. 13-106. Use of registered pesticides to conform to federal and state requirements.**

Any person who transports, handles or applies within the Community any pesticide registered as required by section 13-105 shall do so only in strict conformity with the terms and provision of the FEPCA and Arizona statutes, and all rules, regulations, orders and directives issued pursuant thereto, which are applicable to such registration, including those applicable to its particular classification of registration pursuant to the FEPCA

(Code 1981, § 13-59; Code 2012, § 13-59; Ord. No. SRO-60-79, § 8, 8-29-1979; Ord. No. SRO-402-2012, § 13-59, 5-30-2012)

#### **Sec. 13-107. Judicial proceedings; Community court.**

If at any time it appears to the director that any person has violated or failed to comply with

the provisions of this article or any of the rules, regulations, orders and directives of the director, or certificate, license or permit issued by the director, or that such person is then so violating or failing to comply therewith, the director or his or her representative so authorized by him or her may institute proceedings in the Community court for any appropriate remedies, whether criminal or civil in nature, including injunctive relief, seizure and forfeiture, and the posting of bonds or sureties to ensure compliance. The foregoing shall not be deemed to limit or restrict the director or any other persons taking appropriate action including issuance of cease-and-desist orders, and giving notification to representatives of federal, state, county or municipal government agencies, if it appears any person has violated or failed to comply as aforesaid; provided, however, the director and those acting on his or her behalf shall not undertake in his or her name or that of the Community, any action in any court other than the Community court. (Code 1981, § 13-60; Code 2012, § 13-60; Ord. No. SRO-60-79, § 10, 8-29-1979; Ord. No. SRO-402-2012, § 13-60, 5-30-2012)

**Secs. 13-108—13-127. Reserved.**

**ARTICLE V. FOOD SERVICE  
ESTABLISHMENTS AND RETAIL FOOD  
STORES**

**Sec. 13-128. Policy.**

It is the policy of the Community that food service and retail food store sales organizations operating within the Community conduct their food-handling businesses in such a way as to protect the public against hazards to their health and welfare. (Code 1981, § 13-71; Code 2012, § 13-71; Ord. No. SRO-118-89, § 1, 3-1-1989; Ord. No. SRO-402-2012, § 13-71, 5-30-2012)

**Sec. 13-129. Definitions.**

In this article, unless the context otherwise requires, the following terms shall have the meanings herein ascribed to them:

*Business* means all activities or acts, personal or corporate, engaged in and caused to be engaged

in with the object of gain, benefit or advantage, either direct or indirect, but not casual activities or sale, or activities engaged in which are operated from the residence of the operator, which residence is located within the exterior boundaries of the Community.

*Engaging*, when used with reference to engaging or continuing in business, includes the exercise of corporate or franchise powers.

*Food service* means activities or acts engaged in by any person involving the sale of food at retail, in eating establishments or food stores.

*Person* means individual, corporation, company, association, firm, co-partnership or any group of individuals acting as a unit. (Code 1981, § 13-72; Code 2012, § 13-72; Ord. No. SRO-118-89, § 2, 3-1-1989; Ord. No. SRO-402-2012, § 13-72, 5-30-2012)

**Sec. 13-130. License required.**

No person shall commence, practice, transact or carry on any business involving food service as defined in this article without first having procured a license as provided for in this article. (Code 1981, § 13-73; Code 2012, § 13-73; Ord. No. SRO-118-89, § 3, 3-1-1989; Ord. No. SRO-402-2012, § 13-73, 5-30-2012)

**Sec. 13-131. Relationship of license to others.**

The license provided for in this article does not supplant any other requirement for the issuances of other licenses under this Community Code of Ordinances. (Code 1981, § 13-74; Code 2012, § 13-74; Ord. No. SRO-118-89, § 4, 3-1-1989; Ord. No. SRO-402-2012, § 13-74, 5-30-2012)

**Sec. 13-132. Application for license.**

Application for a license under this article shall be made by the operator of the business engaged in food service on forms furnished by the Community manager to the Community development department. Every application shall be accompanied by an application fee in the amount of \$50.00. Upon the granting of the



license, the application fee shall be applied to the total required license fee. Annual license fees shall be \$150.00.

(Code 1981, § 13-75; Code 2012, § 13-75; Ord. No. SRO-118-89, § 5, 3-1-1989; Ord. No. SRO-402-2012, § 13-75, 5-30-2012)

#### **Sec. 13-133. Duration of license.**

Each license shall be valid for a calendar year. Subsequent licenses will be issued upon the payment of a license application fee and the submission of a reapplication. There shall be no proration of license fees issued after the beginning of a calendar year.

(Code 1981, § 13-76; Code 2012, § 13-76; Ord. No. SRO-118-89, § 6, 3-1-1989; Ord. No. SRO-402-2012, § 13-76, 5-30-2012)

#### **Sec. 13-134. Display of licenses.**

All licenses issued under the provisions of this article must be displayed in a conspicuous place in the establishment at which the business dealing in food service is conducted or carried on. (Code 1981, § 13-77; Code 2012, § 13-77; Ord. No. SRO-118-89, § 7, 3-1-1989; Ord. No. SRO-402-2012, § 13-77, 5-30-2012)

#### **Sec. 13-135. Food Code.**

The United States Department of Health and Human Services (HHS) and Food and Drug Administration's (FDA) 2009 Food Code (food code) and accompanying annex, including such chapters, appendices, annexes and comprehensive HHS/FDA food code amendments that may be amended and published from time to time shall be the governing law of the Community, provided for the following amendments to the food code:

*Law* means applicable Community, federal or other statutes, regulations and ordinances.

*Permit* means a license as required by section 13-130.

*Regulatory authority* means the Community. (Code 1981, § 13-78; Code 2012, § 13-78; Ord. No. SRO-118-89, § 8, 3-1-1989; Ord. No. SRO-369-2010, § 13-78, 9-15-2010; Ord. No. SRO-402-2012, § 13-78, 5-30-2012)

#### **Sec. 13-136. Intergovernmental agreements and consulting contracts.**

The Community development department with the consent of the Community may enter into intergovernmental agreements with departments of the State of Arizona or departments of Maricopa County, Arizona, or with private contractors to provide inspection and other services required under this article.

(Code 1981, § 13-79; Code 2012, § 13-79; Ord. No. SRO-118-89, § 9, 3-1-1989; Ord. No. SRO-402-2012, § 13-79, 5-30-2012)

#### **Sec. 13-137. Regulations.**

All licenses under this article shall comply with all regulations which are promulgated under the authority of and in compliance with provisions of this article and with this Community Code of Ordinances.

(Code 1981, § 13-80; Code 2012, § 13-80; Ord. No. SRO-118-89, § 10, 3-1-1989; Ord. No. SRO-402-2012, § 13-80, 5-30-2012)

#### **Sec. 13-138. License suspension or revocation.**

Upon receiving notice that a licensee in connection with his or her operations under this article has violated any of the provisions under this article or any of the laws of the Community or the United States and upon a showing of such violation, after five days' notice thereof to all parties concerned and a hearing before the Community manager or his or her designee, the Community manager or his or her designee may suspend or revoke the license previously granted under this article to such licensee.

(Code 1981, § 13-81; Code 2012, § 13-81; Ord. No. SRO-118-89, § 11, 3-1-1989; Ord. No. SRO-402-2012, § 13-81, 5-30-2012)

#### **Sec. 13-139. Appeals; waiver of requirements.**

(a) Appeals from the denial, revocation or suspension of a license provided for in this article may be taken to the Community Council in accordance with procedures established by the council for the hearing of administrative appeals.



(b) The president or vice president of the Community may waive application and license fees if the applicant is a member of the Community and is unable to pay such fees within the year the application is made without undue hardship.

(Code 1981, § 13-82; Code 2012, § 13-82; Ord. No. SRO-118-89, § 12, 3-1-1989; Ord. No. SRO-402-2012, § 13-82, 5-30-2012)

#### **Sec. 13-140. Violations.**

Any person to whom a license has not been issued or if earlier issued has been revoked or suspended shall cease operation upon receipt of notice from the Community manager or his or her designee. If such person fails to cease operations, then the Community court, upon application of the Community manager for and on behalf of the Community Council and after having found a failure to secure a proper license or a suspension or a revocation of a license and failure to cease or desist operations, and upon three days' notice by the United States mail addressed to the place at which the business operations are carried out, and after a hearing to be held no longer than five days after application is made and three days after notice is mailed, shall issue a mandatory injunction requiring such person to vacate the premises and cease and desist operations. The order of the court, as issued, shall be carried out by the chief of police of the department of public safety or police officers of the department of public safety assigned by the chief of police.

(Code 1981, § 13-83; Code 2012, § 13-83; Ord. No. SRO-118-89, § 13, 3-1-1989; Ord. No. SRO-402-2012, § 13-83, 5-30-2012)

#### **Secs. 13-141—13-149. Reserved.**

### **ARTICLE VI. PRIVATE MEDICAL AND HEALTH CARE PROVIDERS, ENTITIES THAT PROVIDE COSMETOLOGY SERVICES OR ENTITIES THAT HAVE BIOLOGICAL MATERIAL OR WASTE OPERATING IN THE COMMUNITY**

#### **Sec. 13-150. Policy.**

(a) It is the policy of the Community to protect the public health and welfare and therefore, require all non-governmental human and animal

medical and health care professionals and entities to have the proper accreditations, certifications and/or licensing that are generally required by the State of Arizona.

(b) It is the policy of the Community to protect the public from infectious bacteria and other illnesses when cosmetology services are offered within the boundaries of the Community.

(c) It is also the policy of the Community to ensure the proper handling and disposal of all biological material and waste that may be created, disposed of, or stored within the boundaries of the Community.

(Ord. No. SRO-500-2018, 7-18-2018)

#### **Sec. 13-151. Definitions.**

*Person* for purposes of this article is a person who is engaging in the activity defined in Section 13-152(a).

*Private entities or private entity* for purposes of this article means a business that is not the SRPMIC government or any of its divisions or enterprises.

(Ord. No. SRO-500-2018, 7-18-2018)

#### **Sec. 13-152. Applicability.**

(a) This ordinance applies to the following private entities and persons that are leasing space, engaged in business or providing the following services:

- (1) Human or animal medical or health care providers, laboratories, centers, institutions, hospitals, clinics, facilities, and schools;
- (2) Cosmetology services (hair salons or barber shops, nail salons, body adornment salons, cosmetic laser services, etc.); and
- (3) Businesses that create, dispose or store human or biological material or waste products.

(b) By entering into a lease within the boundaries of the Community, procuring a Community Business License, or engaging in business or providing services within the boundary of the Community, a private entity or person has

consented to the inherent civil regulatory authority of the Community to regulate the conduct of that entity or person and their activities within the Community's territory and jurisdictional boundaries.

(c) This ordinance does not apply to the SRPMIC government or any of its divisions or enterprises.

(Ord. No. SRO-500-2018, 7-18-2018)

### **Sec. 13-153. Requirements.**

All private entities or persons who meet the criteria of Section 13-151 above, must meet the following criteria:

- (a) Properly licensed and be in good standing with the relevant Arizona State licensing or accrediting entity.

Some examples of these Arizona licensing or accrediting agencies or associations include but are not limited to:

The Arizona Medical Board, Arizona Regulatory Board of Physicians Assistants, Arizona Naturopathic Physicians Board of Medical Examiners, Arizona Board of Podiatry Examiners, Arizona State Board of Nursing, Arizona Respiratory Care Examiners Board, Arizona Pharmacy Board, Arizona Board of Occupational Therapy Examiners, Arizona Board of Osteopathic Examiners in Medicine and Surgery, Arizona Dental Board, Arizona Chiropractic Board, Arizona Optometry Board, Arizona Acupuncture Board of Examiners, Arizona Behavioral Health Examiners Board, Arizona Board of Homeopathic and Integrated Medicine Examiners, Arizona Medical Radiologic Technology Board of Examiners, Nursing Care Institution Administrators and Assisted Living Facility Managers Board of Examiners, Arizona Board of Dispensing Opticians, Arizona State Board of Optometry, Arizona Board of Physical Therapy, the Arizona State Board of Psychologist Examiners, the Arizona State Board of Cosmetology, the Arizona Board of Funeral Directors and Embalmers, Arizona Department of

Health Services - Long Term Care Licensing, and the Arizona State Veterinary Medical Examining Board (as this list may be amended by the Community's Department of Health and Human Services Department through policy);

- (b) Operating under a valid Community business license;
- (c) Complying with all existing Community laws and regulations and those that may be enacted or adopted by the Community.

(Ord. No. SRO-500-2018, 7-18-2018)

### **Sec. 13-154. Cooperation with outside agencies.**

(a) As an act of sovereignty, the Community hereby authorizes Arizona licensing and accrediting agencies to conduct on-site inspections within the Community regarding these private entities and persons so long as they comply with the requirements of this article.

(b) All private entities and persons referenced in Section 13-152 must notify the Community's Department of Health and Human Services prior to any scheduled visit, audit, inspection, or similar activity, or upon arrival for any unscheduled visit, by any Arizona licensing or accrediting agency.

(c) The Community Department of Health and Human Services or the Community's Risk Management Officer has the authority to attend any on-site inspection that occurs within in the boundaries of the Community.

(Ord. No. SRO-500-2018, 7-18-2018)

### **Sec. 13-155. Revocation of business license.**

(a) Any private entity or person that meets the requirements of this article, and who is not properly licensed or accredited by the State of Arizona or other relevant licensing or accrediting entity, may have their Community business license revoked.

(b) A revocation of a business license would be initiated by the Community's Health and Human Services Department or the Community's Risk Management Officer. All petitions to revoke

a business license must be made to the Community Manager. The Community Manager would ensure the licensee was provided notice of the proposed revocation and a hearing before an administrative judge appointed by the Community Manager.

(Ord. No. SRO-500-2018, 7-18-2018)

**Sec. 13-156. Roles and responsibilities.**

(a) The Community Department of Health and Human Services is hereby authorized to develop and implement policies, regulations, and requirements necessary to fully implement this article.

(b) The Community Department of Health and Human Services and the Community's Risk Management Officer are authorized to seek revocation of the Community business license if the holder of that license fails to comply with the requirements of this article or if the department reasonably believes there is a substantial risk to the public's health and safety.

(Ord. No. SRO-500-2018, 7-18-2018)

**Sec. 13-157. Sovereign immunity.**

Nothing in this article is or shall be construed as waiver of the Community's sovereign immunity.

(Ord. No. SRO-500-2018, 7-18-2018)

**Secs. 13-158—13-199. Reserved.**

**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.

(SRO-517-2020, 4-8-2020)

**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 24 hours after existence of the disease is known and shall include the name of persons afflicted and the nature of the disease.

(SRO-517-2020, 4-8-2020)

**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 24 hours or sooner after death, and shall include the specific name and character of the disease.

(SRO-517-2020, 4-8-2020)

**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.

(SRO-517-2020, 4-8-2020)

**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 contamina-

tion 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. (SRO-517-2020, 4-8-2020)

**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. (SRO-517-2020, 4-8-2020)

**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. (SRO-517-2020, 4-8-2020)

**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. (SRO-517-2020, 4-8-2020)

**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. (SRO-517-2020, 4-8-2020)

**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. (SRO-517-2020, 4-8-2020)

**Secs. 13-210—13-218. Reserved.**

## **ARTICLE VIII. DECLARATION OF PUBLIC HEALTH EMERGENCIES**

### **Sec. 13-219. 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.  
(SRO-517-2020, 4-8-2020)

**Sec. 13-220. 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 24 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 30 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 30 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 48 hours after it is filed. If the court grants the application, the court must schedule a hearing on the order to show cause within 24 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.

(SRO-517-2020, 4-8-2020)