

TOHONO O'ODHAM CODE

TITLE 4 – CIVIL ACTIONS

CHAPTER 4 – VIOLATING A PUBLIC HEALTH MEASURE

Legislative history: 4 T.O.C. Chapter 4 – Violating a Public Health Measure enacted by Resolution No. 20-443 effective December 14, 2020 and will automatically be repealed on June 1, 2021 unless extended by Legislative Council resolution.

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CHAPTER 4 - VIOLATING A PUBLIC HEALTH MEASURE

Section 4101 Intent and Purpose

This Chapter is enacted in response to the COVID-19 health crisis and the significant risks posed by the physical presence and conduct of persons within the exterior boundaries of the Nation and:

- (A) to promote, protect and provide for public health, peace, education and general welfare of the Tohono O’odham Nation, its members, and persons on the Nation;
- (B) to support and enforce public health measures during a public health emergency;
- (C) to regulate the activities of non-members who enter consensual relationships with the Nation or its members;
- (D) to exercise civil authority over the conduct of non-Indians within the Tohono O’odham Nation when that conduct threatens or has a direct effect on the political integrity, the economic security, or the health or welfare of the Nation; and
- (E) as an exercise of the Nation’s power to exclude persons from the Nation’s lands.

Section 4102 Civil Action; Application

This Chapter is civil in nature and applies to all persons within the Tohono O’odham Nation.

Section 4103 Violations; Enforcement; Withdrawal of Public Health Measure

- (A) Any person who violates the provisions of Section 4104 is responsible for violating a public health measure and is subject to a fine of not less than \$50.00 and not more than \$500.00.
- (B) The Tohono O’odham Police Department is authorized to issue a civil citation for violating a public health measure.
- (C) A person shall not be cited for violating a provision of Section 4104 if the Nation’s chairperson issues and publishes to the general public a written executive order withdrawing that public health measure.

Section 4104 Public Health Measures

A person within the Tohono O’odham Nation must comply with the following public health measures:

(A) Stay At Home. A person residing on the Nation shall stay at his or her residence, except as needed for employment; to meet medical, educational, health, or safety needs; to obtain food for himself, herself, or a family member; to tend to legal matters; or to attend a wake or funeral.

(B) Exclusion from the Tohono O’odham Nation. Notwithstanding 4 T.O.C. Chapter 2, a person shall not enter the exterior boundaries of the Tohono O’odham Nation, except for:

- (1) A resident of the Nation;
- (2) A Nation’s member;
- (3) An employee working within the Tohono O’odham Nation;
- (4) Medical and healthcare providers;
- (5) Deliveries of medicine, food, and other essential items;
- (6) Public and private transportation services necessary for the health and safety needs of a person on the Nation;
- (7) Traditional O’odham healer;
- (8) Mail services;
- (9) Financial services;
- (10) To patronize a business in operation;
- (11) A person providing public safety and health services;
- (12) A person traveling through the Nation on State Highway 86;
- (13) Businesses providing maintenance services that are necessary to maintain the health and safety of the households or buildings on the Nation; and
- (14) Other necessary professional services as needed.

(C) Curfew. A resident of the Nation shall remain at his or her residence from 8:00 p.m. to 6:00 a.m. unless one of the following exceptions applies:

- (1) Working at a business in operation during the curfew hours or traveling to or from work;
- (2) Seeking medical care, or traveling to or from those services;
- (3) Traveling to provide necessary care for another who cannot care for themselves;
or
- (4) Seeking protection from a dangerous situation, such as seeking shelter from domestic violence.

(D) Wakes and Funeral Services

- (1) At least one person must be identified as the host in charge of the wake or funeral service and shall be responsible for ensuring compliance with all applicable laws and executive orders.

- (2) The person in charge of a wake or funeral is responsible for ensuring that all attendees physically distance at least six feet from others who do not reside in the same household and that all attendees wear face coverings covering the nose and mouth.
- (3) A wake and funeral held on the Nation shall be limited to a combined six hours total, must be completed in one calendar day, and must be held between sunrise and sunset.

(E) Public Spaces Requirements

- (1) Social Gatherings. With the exception of persons residing in the same household, a person shall not attend a social gathering, which includes any event and activity held for social or community purposes. This Section 4104(E) does not apply within a business lawfully operating within the Nation if the business enforces social distancing measures, or during a religious service or traditional ceremony; provided that a social gathering held in association with a religious service or ceremony for social purposes, including but not limited to gathering before or after for eating, drinking, dancing, or socializing is prohibited.
- (2) No Public Feedings. Meals or to-go plates shall not be offered in association with wakes, funerals, memorial services, rosaries, birthdays, or anniversaries unless the event occurs solely among persons residing in the same household.
- (3) Face Coverings. A person is required to wear a face coverings in all public spaces.
 - (a) “Public Spaces” means any indoor or outdoor place that is accessible by the general public, including but not limited to all governmental facilities, grocery stores, gas stations, convenience stores, post offices, establishments serving food or beverages, establishments offering recreational activities or entertainment, and places that offer medical or health services or transportation to the general public.
 - (b) “Face masks or coverings” means cloth, fabric or other soft material that covers the nose and mouth. Coverings may be homemade or commercially manufactured, or may be improvised from ordinary materials such as a scarf or bandana.
 - (c) Limited Exceptions. Face coverings are not required for children under the age of two years, for first responders when a face covering would interfere with the responder’s duties and are not required, or, in accordance with Centers for Disease Control guidelines, due to a medical condition, mental health condition, or developmental disability.

- (4) **Playgrounds and Sports.** A person shall not enter a playground or a sports area, such as a football or baseball field, or a basketball court.