HEALTH AND SAFETY CODE

Table of Contents

ARTICLE 1. BUILDING AND CONSTRUCTION 1
CHAPTER 1. GENERAL PROVISIONS 1
Section 1-101. Building Inspector. 1
Section 1-102. Supplemental Inspection Fee. 1
Section 1-103. Waiver of Fees. 1
CHAPTER 2. UNIFORM BUILDING CODE 1
Section 1-201. Uniform Building Code. 1
Section 1-202. Unburned Clay Masonry. 1
Section 1-203. Permits. 8
CHAPTER 3. UNIFORM HOUSING CODE 9
Section 1-301. Uniform Housing Code. 9
CHAPTER 4. UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS 9
Section 1-401. Uniform Code for the Abatement of Dangerous Buildings. 9
CHAPTER 5. UNIFORM PLUMBING CODE 9
Section 1-501. Uniform Plumbing Code. 9
CHAPTER 6. NATIONAL ELECTRICAL CODE 9
Section 1-601. National Electrical Code. 9
CHAPTER 7. UNIFORM MECHANICAL CODE 9
Section 1-701. Uniform Mechanical Code. 9
CHAPTER 8. UNIFORM FIRE CODE 10
Section 1-801. Uniform Fire Code. 10

ARTICLE 2. LIQUOR 11
CHAPTER 1. GENERAL PROVISIONS 11
Section 2-101. Definitions. 11
Section 2-102. Referendum. 13
Section 2-103. Persons Eligible. 13
Section 2-104. Liquor Control Board. 13
Section 2-105. Effective Date; Repeal; Transition. 14
Section 2-106. Severability. 14
CHAPTER 2. LICENSES; APPLICATION AND ISSUANCE; REGISTRATION 14
Section 2-201. License Required. 14
Section 2-202. Exceptions. 14
Section 2-203. Registration of Salesmen. 15
Section 2-204. Applications. 15
Section 2-205. Hearings. 15
Section 2-206. Public Notice. 15
Section 2-207. Appeals. 16
Section 2-208. Form of Licenses. 16
Section 2-209. Transfer or Modification of Licenses. 16
Section 2-210. Fees. 17

Section 2-211. Disposition of Fees and Fines. 17
CHAPTER 3. SPECIAL EVENT LICENSES 17
Section 2-301. Special Event Licenses. 17
Section 2-302. Qualifications of Organizations. 17
Section 2-303. Grounds for Denial. 18
CHAPTER 4. UNLAWFUL ACTS; VIOLATIONS; PENALTIES 18
Section 2-401. Management of Licensed Premises. 18
Section 2-402. Laws of the United States. 18
Section 2-403. Violations. 18
Section 2-404. Penalties. 20
Section 2-405. Construction; Exceptions. 20
Section 2-406. Intoxication. 20
Section 2-407. Penalties. 21
Section 2-408. Civil Responsibility; Insurance. 21
Section 2-409. Contraband. 21
CHAPTER 5. REVOCATION OF LICENSES. 21
Section 2-501. Revocation of Licenses. 21
Section 2-502. Grounds. 22
Section 2-503. Appeals. 22
CHAPTER 6. BAR, LIQUOR AND PACKAGE LIQUOR PRIVILEGE TAX 22
Section 2-601. General Purpose. 22
Section 2-602. Definitions. 22
Section 2-603. Imposition of Tax. 23
Section 2-604. Rate of Tax. 23
Section 2-605. Tax is Additional Tax. 23
Section 2-606. Exemptions. 23
Section 2-607. Liability for Payment. 24
Section 2-608. Collection of Tax. 24
Section 2-609. Payment of Tax. 24
Section 2-610. Administration. 24
Section 2-611. Filing of Applications. 24
Section 2-612. Filing of Return. 24
Section 2-613. Records. 24
Section 2-614. Failure to Pay Tax. 25
Section 2-615. Violations; Additional Penalties. 25
Section 2-616. Promulgation of Regulations. 25
Section 2-617. Amendments. 25
Section 2-618. Failure to Remit; Licensing. 25
Section 2-619. Application to the Tribes. 25
Section 2-620. Nondiscrimination. 26

ARTICLE 3. FOOD SERVICE ESTABLISHMENTS 27
CHAPTER 1. GENERAL PROVISIONS 27
Section 3-101. Definitions. 27
Section 3-102. Regulations. 28
CHAPTER 2. PERMITS; ISSUANCE AND REVOCATION 28
Section 3-201. Permits Required. 28

Section 3-202. Application for Permit. 28
Section 3-203. New Ownership or Operation. 28
Section 3-204. Structural Modifications. 28
Section 3-205. Granting and Denial; Notice. 29
Section 3-206. Revocation; Notice. 29
Section 3-207. Form of Permits; Renewal; Fees; Waiver. 29
Section 3-208. Disposition of Fees and Fines. 29
CHAPTER 3. INSPECTIONS AND COMPLIANCE 29
Section 3-301. Inspections. 29
Section 3-302. Inspection Reports. 30
Section 3-303. Warnings. 30
Section 3-304. Suspensions. 30
Section 3-305. Contagion. 30
Section 3-306. Condemnation of Foods. 31
CHAPTER 4. FOOD SERVICE STANDARDS 31
Section 3-401. Interpretation. 31
Section 3-402. Health and Safety Standards; Waiver. 31
Section 3-403. Handling of Food. 32
Section 3-404. Cleaning Substances. 32
Section 3-405. Clean Equipment. 32
Section 3-406. Employee Cleanliness. 32
Section 3-407. Lockers and Dressing Rooms. 33
Section 3-408. Lighting; Sanitation; Ventilation. 33
Section 3-409. Water; Plumbing; Sewage. 34
Section 3-410. Garbage and Vermin Control. 34
Section 3-411. Disease Control. 34
CHAPTER 5. VIOLATIONS; PENALTIES 35
Section 3-501. Criminal Penalties. 35
Section 3-502. Civil Penalties. 35
Section 3-503. Civil Liability. 36
CHAPTER 6. ADMINISTRATIVE APPEALS 36
Section 3-601. Appeals. 36
Section 3-602. Judicial Review. 36

ARTICLE 4. COLORADO RIVER FLOODING 37
CHAPTER 1. GENERAL PROVISIONS. 37
Section 4-101. Findings and Purpose. 37
Section 4-102. Definitions. 37
Section 4-103. Severability. 38
CHAPTER 2. EMERGENCY DECLARATIONS 38
Section 4-201. Delegation. 38
Section 4-202. Declaration of Emergency. 38
CHAPTER 3. REMEDIAL OR PROTECTIVE ACTION 38
Section 4-301. Remedial or Protective Action. 38
Section 4-302. Exceptions. 38
CHAPTER 4. UNLAWFUL ACTS; PENALTIES 39
Section 4-401. Unlawful Acts. 39

Section 4-402. Penalties. 39

ARTICLE 5. COMMUNICABLE DISEASE PREVENTION 40
CHAPTER 1. GENERAL PROVISIONS 40
Section 5-101. Definitions. 40
CHAPTER 2. RECORD OF COMMUNICABLE DISEASES 40
Section 5-201. Report of Communicable Diseases. 40
Section 5-202. Information Required from Afflicted Persons; Required Examination. 40
Section 5-203. Immunity of Informants. 40
Section 5-204. Department's Duty to Investigate and Adopt Control Measures. 40
CHAPTER 3. CONTROL MEASURES 41
Section 5-301. Dissemination of Information; Voluntary Treatment. 41
Section 5-302. Quarantine. 41
Section 5-303. Destruction of Infected Property. 41
Section 5-304. Initiation of Legal Proceedings. 41
CHAPTER 4. UNLAWFUL ACTS; PENALTIES; INAPPLICABILITY OF PRIVILEGES 41
Section 5-401. Unlawful Acts. 41
Section 5-402. Penalties. 42
Section 5-403. Suspended Penalties. 42
Section 5-404. Inapplicability of Certain Privileges. 42

ARTICLE 6. FIRE PREVENTION AND SAFETY 43
CHAPTER 1. ORGANIZATION AND PROCEDURES 43
Section 6-101. Scope and Intent. 43
Section 6-110. Responsibility of Fire Chief. 43
Section 6-111. Enforcement Authority. 43
Section 6-112. Regulations. 44
Section 6-113. Public Liability. 44
Section 6-120. Abatement. 44
Section 6-121. Compliance Orders; Seizure of Property. 44
Section 6-122. Variances. 44
Section 6-123. Penalties. 45
Section 6-124. Citations. 45
Section 6-130. Appeal. 45
Section 6-140. Administrative Delegations. 45
CHAPTER 2. PERMITS 45
Section 6-201. Permit Requirements. 45
Section 6-202. Conditions of Permits. 48
Section 6-203. Revocation of Permits. 48
CHAPTER 3. EMERGENCY OPERATIONS 48
Section 6-301. Authority of Fire Chief. 48
Section 6-302. Access to Buildings. 49
Section 6-303. Obstructing Fire Protection Activities. 49
CHAPTER 4. FIRE-PROTECTION SYSTEMS 49
Section 6-401. Alarm and Extinguisher Apparatus. 49

Section 6-402. Fire Walls and Doors. 49
CHAPTER 5. FIRE SAFETY STANDARDS 49
Section 6-501. Application of UFC. 49
Section 6-502. Limits for Storage of Hazardous Materials. 50

ARTICLE VII. RABIES CONTROL 51
CHAPTER 1. GENERAL PROVISIONS 51
Section 11-7101. Purpose 51
Section 11-7102. Definitions 51
CHAPTER 2. DOGS 53
Section 11-7201. General 53
Section 11-7202. Dogs Not Permitted at Large 53
Section 11-7203. Leashes 53
Section 11-7204. Vicious Dogs 53
CHAPTER 3. LICENSING OF DOGS 53
Section 11-7301. General 53
Section 11-7302. Obtaining Licenses 53
Section 11-7303. Licensing Fees 53
Section 11-7304. Dog Tags 54
Section 11-7305. Proof of Vaccination 54
Section 11-7306. Transfer of License 54
Section 11-7307. Unlicensed Dog 54
Section 11-7308. Dog Training Permits 54
CHAPTER 4. NUISANCE 54
Section 11-7401. Nuisance 54
CHAPTER 5. ANIMAL BITES 54
Section 11-7501. General 54
Section 11-7502. Lawful Presence on Private Property Defined 54
Section 11-7503. Dog Bites 55
Section 11-7504. Provocation as Defense 55
Section 11-7505. Reporting Animal Bites 55
Section 11-7506. Quarantine of Biting Animals 55
CHAPTER 6. RABIES 55
Section 11-7601. General 55
Section 11-7602. Rabies Vaccination Certificate 55
Section 11-7603. Declaration of Quarantine 56
Section 11-7604. Dogs Not Permitted at Large 56
Section 11-7605. Animals Found at Large in a Quarantine Area 56
CHAPTER 7. IMPOUNDMENT 56
Section 11-7701. Community Pound 56
Section 11-7702. Cooperation with Neighboring Communities 57
Section 11-7703. Establishment and Use of Impoundment Fees 57
Section 11-7704. Animals Subject to Impoundment 57
Section 11-7705. Voluntary Impoundment 57
Section 11-7706. Duration of Impoundment 58
Section 11-7707. Diseased Animals 58
Section 11-7708. Adoption 58

Section 11-7709. Claiming an Impounded Animal 58
CHAPTER 8. CRUELTY TO ANIMALS 58
Section 11-7801. General Provisions 58
Section 11-7802. Abandonment 58
Section 11-7803. Care of Animals 58
CHAPTER 9. ENFORCEMENT 59
Section 11-7901. Enforcement Officers 59
Section 11-7902. Impounding of Neglected and Abused Animals 59
Section 11-7903. Destruction of Potentially Dangerous Animals 59
Section 11-7904. Entrance onto Private Property 60
Section 11-7905. Interference with an Enforcement Officer 60
CHAPTER 10. COMMENCEMENT OF ACTION 60
Section 11-71001. Commencement of Action 60
Section 11-71002. Service 60
Section 11-71003. Proceedings 60
CHAPTER 11. CIVIL PENALTIES 61
Section 11-71101. Penalties 61
Section 11-71102. Punitive Damages 61
Section 11-71103. Remittance of Fines 61
Section 11-71104. Regulations Adopted Pursuant to this Article VII 61

ARTICLE VIII. DISPOSAL OF SOLID WASTE 62
CHAPTER 1. GENERAL PROVISIONS 62
Section 11-8101. Title 62
Section 11-8102. Purpose; Tribal Council Findings 62
Section 11-8103. Definitions 62
Section 11-8104. Responsibility for Storage, Transport And Disposal of Solid Waste 65
CHAPTER 2. REQUIREMENTS APPLICABLE TO THE STORAGE OF SOLID WASTE 65
Section 11-8201. Storage of Solid Waste 65
CHAPTER 3. REQUIREMENTS APPLICABLE TO THE TRANSPORTATION OF SOLID WASTE 65
Section 11-8301. Transportation of Solid Waste 66
CHAPTER 4. REQUIREMENTS APPLICABLE TO THE DISPOSAL OF SOLID WASTE 66
Section 11-8401. Disposal of Solid Waste 66
CHAPTER 5. REGULATIONS APPLICABLE TO INFECTIOUS WASTE 66
Section 11-8501. Disposal of Infectious Waste 66
CHAPTER 6. SLUDGE 66
Section 11-8601. Disposal of Sludge 66
CHAPTER 7. ENFORCEMENT 67
Section 11-8701. Enforcement Officers 67
Section 11-8702. Presumption of Ownership 67
Section 11-8703. Civil Actions 67
Section 11-8704. Commencement of Action 67
Section 11-8705. Service 68

Section 11-8706. Proceedings 68
CHAPTER 8. CIVIL PENALTIES 68
Section 11-8801. GENERAL 68
Section 11-8802. Punitive Damages 69
Section 11-8803. Remittance of Fines 69
CHAPTER 9. SUBSEQUENT DISPOSAL OF IMPROPERLY HANDLED WASTE 69
Section 11-8901. Court Ordered Clean up 69
Section 11-8902. Reimbursement of Tribes 69
Section 11-8903. Reimbursement of Individual 70
Section 11-8904. Attorney's Fees 70
Section 11-8905. Generator's Responsibility For Failure of Transporter or Disposer to Comply With This Article 70
Section 11-8906. Transporter's Responsibility For Failure of Disposer to Comply With This Article 70
CHAPTER 10. FAILURE TO PAY FINES 70
Section 11-81001. Civil Fines 70
CHAPTER 11. SEIZURE AND IMPOUNDMENT OF VEHICLES AND EQUIPMENT 71
Section 11-81101. Seized and Impounded Vehicles and Equipment. 71
CHAPTER 12. SEVERABILITY CLAUSE 71
Section 11-81201. Severability 71

ARTICLE 1. BUILDING AND CONSTRUCTION

[NOTE: Except as otherwise noted, the provisions of Article 1 of the Health and Safety Code were enacted on November 23, 1982 by Ordinance No. 82-3, and amended on March 13, 2000, by Ordinance 00-4.]

CHAPTER 1. GENERAL PROVISIONS

Section 1-101. Building Inspector.

The Tribal Council may, by appropriate resolution, from time-to-time commission a Building Inspector, who shall have the authority to issue permits pursuant to the provisions of this Article, promulgate rules and regulations deemed necessary to carry out the provisions of this Article, upon obtaining prior approval of the Resources Development Committee, and enforce compliance with this Article, any rule or regulation promulgated pursuant to this Article and any permits issued under its terms.

[As amended on March 13, 2000, by Ordinance 00-4.]

Section 1-102. Supplemental Inspection Fee.

At the time that any permit is issued pursuant to the provisions of this Article, the Building Inspector shall provide a written estimate of the number of inspections required to be performed to certify compliance with each permit. If through the fault of permittee, his agents, employees or contractors, a greater number of inspections needs to be performed, permittee shall pay a supplemental inspection fee for each such inspection in the following amounts: $50.00 per inspection; where the work to be inspected is located outside of a l5-mile radius of Parker, $75.00 per inspection.

Section 1-103. Waiver of Fees.

Plan check fees, permit fees and supplemental inspection fees are hereby waived for any plan checks, permits issued and inspections performed respecting any construction actually performed by any member of the Colorado River Indian Tribes.

CHAPTER 2. UNIFORM BUILDING CODE

Section 1-201. Uniform Building Code.

That certain code entitled "Uniform Building Code," l982 Edition, including all revisions thereto, copyrighted by the International Conference of Building Officials, is hereby referred to, adopted and made a part of this Section the same as though said code was specifically set forth in full herein. Each succeeding edition of said code, including all revisions thereto, shall automatically supersede all previous editions thereof and revisions thereto. A copy of said code shall be filed in the office of the Chairman of the Tribes.

Section 1-202. Unburned Clay Masonry.

HEALTH & SAFETY CODE

Section 2405 of the Uniform Building Code, Section 1-201 of this Article is amended to read as follows:

(a) General. Masonry of unburned clay units shall not be used in any building more than two (2) stories in height. The height of every laterally unsupported wall of unburned clay units shall be no more than ten (10) times the thickness of such walls. Exterior walls, which are laterally supported with those supports located no more than twenty-four (24) feet apart, are allowed a minimum thickness of twelve (12) inches for a single story and a minimum thickness of sixteen (l6) inches for the bottom story of a two (2) story with the upper story of a two (2) story allowed a minimum thickness of twelve (l2) inches. Interior bearing walls are allowed a minimum thickness of eight (8) inches.

(b) Compressive Strength. The units shall have an average compressive strength of three hundred (300) pounds per square inch when tested in accordance with A.S.T.M. C67. One sample out of five may have a compressive strength of not less than two hundred and fifty (250) pounds per square inch.

(c) Module of Rupture. The unit shall average fifty (50) pounds per square inch in modulus of rupture.

(d) Soil. The soil used shall contain not less than twenty-five percent (25%) and not more than forty-five percent (45%) of material passing a No. 200 mesh sieve. The soil shall contain sufficient clay to bind the particles together and shall not contain more than two percent (2%) of water-soluble salts.

Most clay loams, except those with a high clay content, are suitable, but it is not practicable to make a selection on the basis of soil analysis only. Soils having a high clay content shrink or crack badly when drying, and sandy soils do not have sufficient bonding material to prevent crumbling.

Neither of these soils should be used alone for brick but a very good building material can be obtained by mixing the two soils together in proportions that will overcome the undesirable qualities of each. The best way to determine the fitness of a soil is to make a sample brick and allow it to cure in the open, protected from moisture. It should dry without serious warping or cracking.

(e) Classes of Adobe.

1. Treated Adobe. The term "treated" is defined to mean adobes or soil to which certain admixtures are added in the manufacturing process in order to limit the adobe's water absorption in order for it to comply with paragraph (h) below. Exterior walls constructed of treated adobe require no additional protection. Stucco is not required. In order for the wall to so comply, the mortar must be of adobe soil treated with an additive to make the mortar comply with the same water absorption requirement in paragraph (h) below.

2. Untreated Adobe. Untreated adobes are adobes which do not meet the water absorption specifications of paragraph (h) below. This shall hold even if some water absorption protective agent has been added. The determination as to whether an adobe is treated or untreated is to test for compliance with paragraph (h) below. Exterior walls of untreated adobe are allowed but must comply with paragraph (o) requiring Portland Cement plaster applied to the outside.

   Use of untreated adobe is prohibited within eight (8) inches above the finished floor

grade. Treated adobes may be used for the first eight (8) inches above finished floor grade. Mortar must be adobe soil (either treated or untreated).

(f) Sampling. Each of the tests prescribed in this Section shall be applied to five sample units selected at random from each five thousand (5,000) bricks to be used.

(g) Moisture Content. The moisture content of the unit shall be not more than four percent (4%) by weight.

(h) Absorption. A dried four-inch (4") cube cut from a sample unit shall absorb not more than two and one-half percent (2½%) moisture by weight.

(i) Shrinking Cracks. No units shall contain more than three (3) shrinkage cracks, and no shrinkage crack shall exceed three (3) inches in length or one eighth (l/8) inch in width.

(j) Use. No adobe shall be laid in the wall for at least three (3) weeks after making, dependent on weather conditions.

(k) Foundations. Adobes shall not be used for foundations or basement walls. All adobe walls, except as noted under Group M Buildings, shall have a continuous concrete footing at least eight (8) inches thick and not less than two (2) inches wider on each side than the foundation walls above. All foundation walls which support adobe units shall extend to an elevation not less than six (6) inches above the finish grade. The foundation trench shall be excavated to a depth of at least eighteen (l8) inches below natural grade.

Foundation walls shall be at least as thick as the exterior wall as specified in Section 2405 (l): Where stem wall insulation is used, a variance is allowed for the stem wall width to be two (2) inches smaller than the width of the adobe wall it supports.

Either the footing or the foundation (stem) wall must be reinforced with a minimum of two (2) No. 4 reinforcing rods.

(l) Exterior Walls. All walls of adobe (treated or untreated) shall not have thicknesses less than that allowed in paragraph (a) above. Mortar shall be in accordance with paragraph (e) l and (e) 2 above, depending on the class of adobe being used. All adobe brick shall be laid up with full slush (bed) joints and shall be bonded (overlapped) no less than four (4) inches. Walls of treated adobe which do not require a protective outer coating must also be laid up with full head (end) joints. All exterior adobe walls shall be topped with a continuous belt course or tie beam (except patio walls less than six (6) feet high above the stem). At the time of laying, all units shall be clean and damp at the surface. Parapet walls bearing on wooden tie beams shall be nonstructural and shall not exceed thirty-six (36) inches in height.

No adobe bricks shall be used for isolated piers, porch columns, or wall section of less than twenty-eight (28) inches by twelve (12) inches. A minimum twelve (12) inch wall section will be permitted between openings provided a continuous lintel of concrete or timber be installed spanning both openings and wall section.

(m) Concrete Tie Beam. Shall be minimum size six (6) inch by width of wall up to a ten (l0) inch width. For wall thicker than ten (10) inches, a ten (10) inch tie beam will suffice. All concrete tie beams shall be reinforced with a minimum of two (2) No. 4 reinforcing rods each floor and ceiling plate line.

(n) Wood Lintels or Tie Beams. Shall be a minimum size six (6) inches by wall width up to a ten (10) inch width. For walls thicker than ten (10) inches, a tie beam of ten (l0) inch thickness shall suffice. The wooden tie beams shall be overlapped, or spliced, at least six (6) inches at all joints. All joints shall have a wall bearing of at least twelve (12) inches. Wood tie beams may be solid in the six (6) inch dimension or may be built up by applying layers of lumber. No layer shall be less than one (l) inch. Wood joists, vigas, or beams shall be substantially fastened to the wood tie beam with large nails or large screws. All lintels, wood or concrete, in excess of nine (9) feet shall have specific approval of the Building Official.

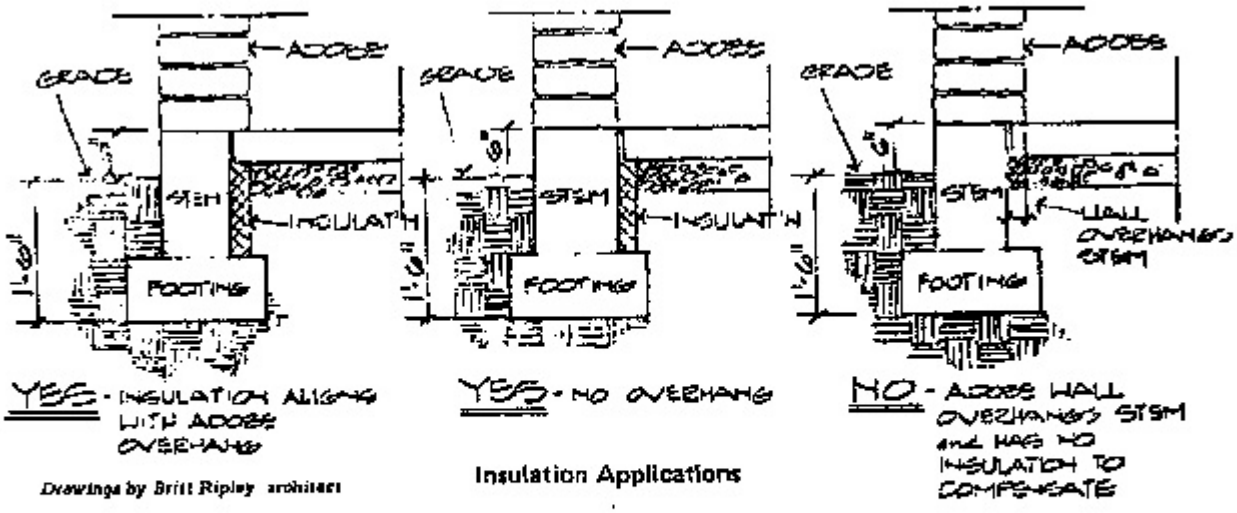
All wooden structural members embedded in adobe walls shall be separated therefrom by a waterproof membrane equal to Type 15 felt (15 pound felt).

(o) Plastering. All untreated adobe shall have all exterior walls plastered on the outside with Portland Cement plaster, minimum thickness three-quarter (3/4) inch in accordance with Chapter 47. Protective coatings other than plaster are allowed, providing such coating is equivalent to Portland Cement plaster in protecting the untreated adobes against deterioration and/or loss of strength due to water. Metal wire mesh minimum twenty (20) gauge by one (1) inch opening shall be securely attached to the exterior adobe wall surface by nails or staples with minimum penetration of one and one-half (1½) inches. Such mesh fasteners shall have a maximum spacing of sixteen (16) inches apart. All exposed wood surfaces in adobe walls shall be treated with an approved wood preservative before the application of wire mesh. (Exception: Exterior patio, yard walls, etc., need not have Portland Cement coating).

(p) Floors and Roofs. May be constructed of wood, the sizes and spans to be in accordance with Chapter 25.

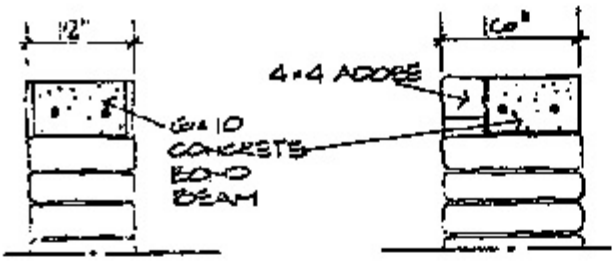
(q) Partitions of Wood. Shall be constructed as specified in Chapter 25. Wood partitions shall be nailed to nailing blocks laid up in the adobe wall or bolted through the adobe wall the height of the partition, with one-half (½) inch bolts at twenty-four (24) inches on center, with large washer or plates.

[Diagrams]

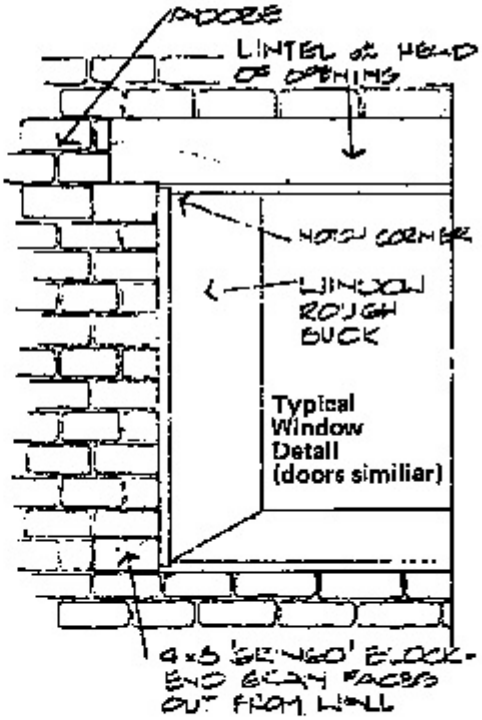


Drawings by Britt Ripley architect

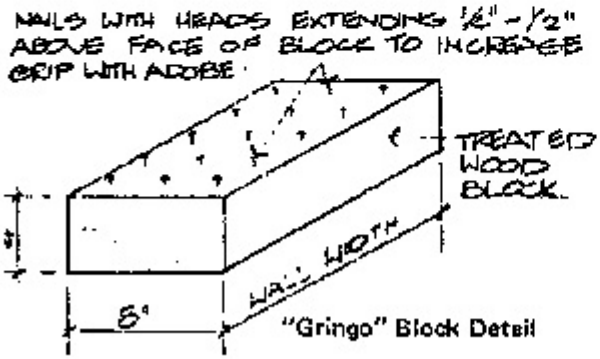
Insulation Applications



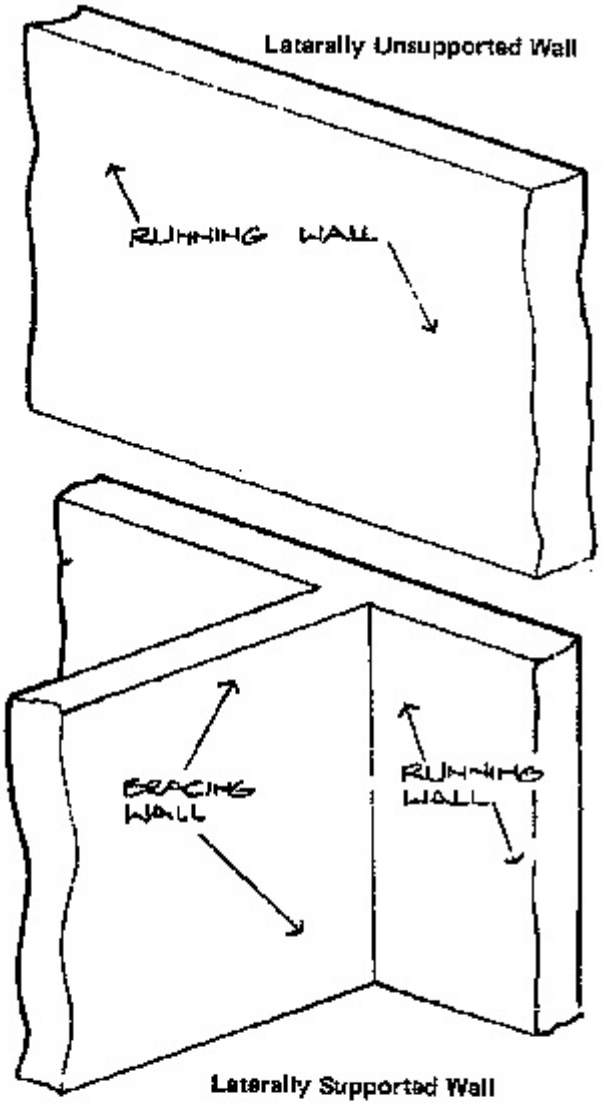
Bond Beam Applications

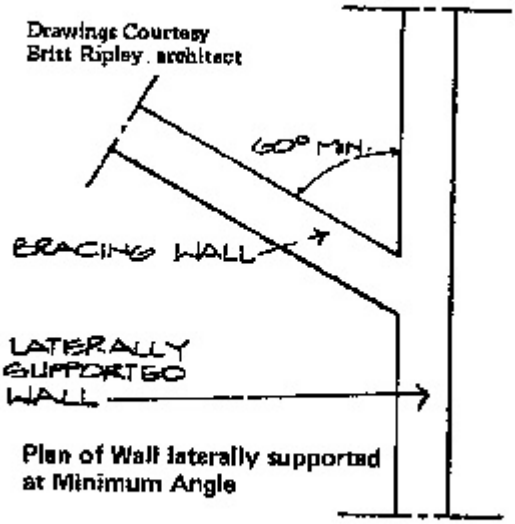


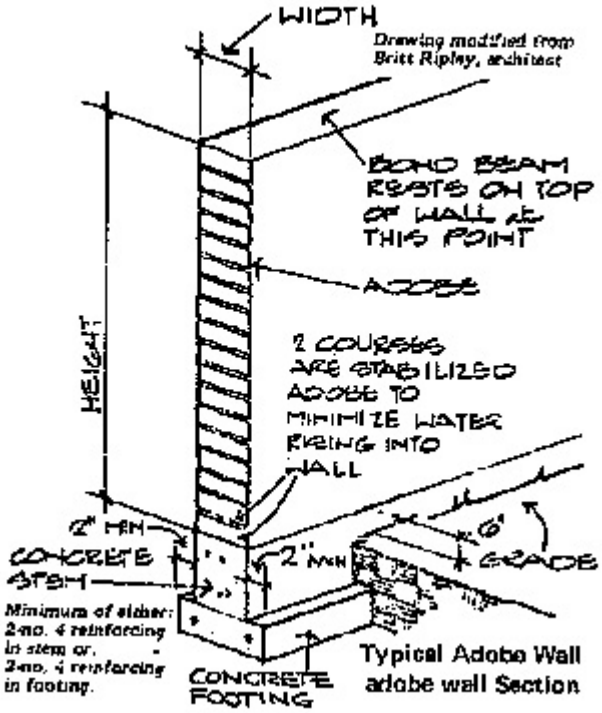
Typical Window Detail (doors similiar)

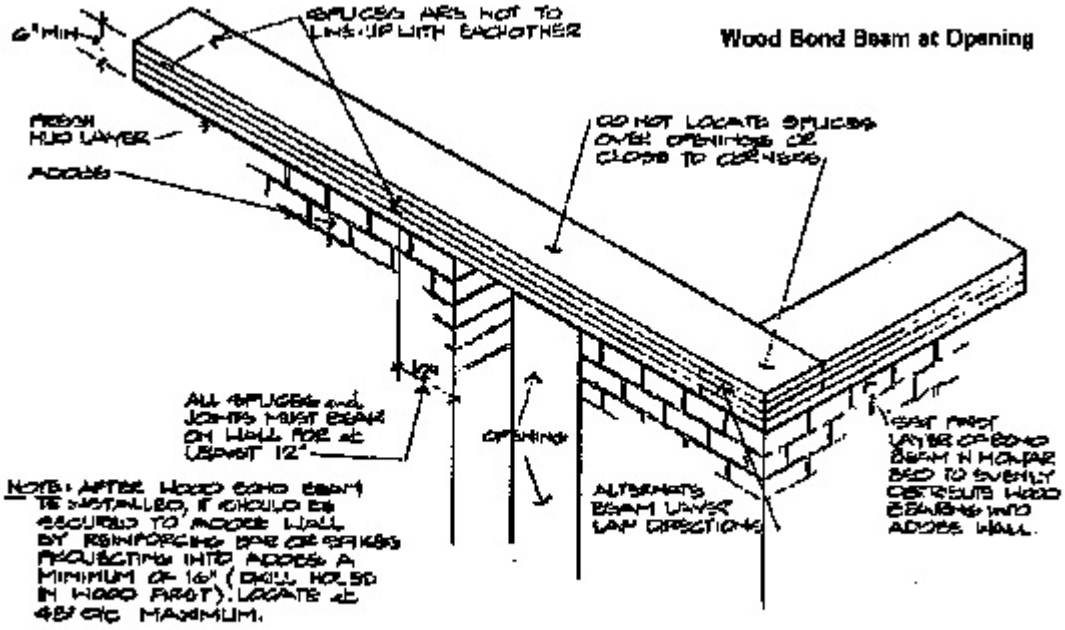


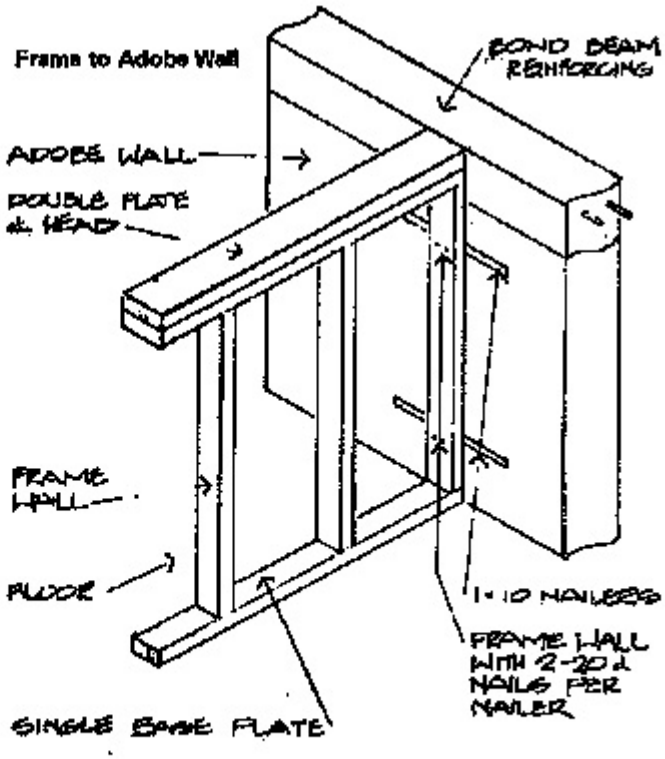
"Gringo" Block Detail


Laterally Unsupported Wall
RUNNING WALL
BRACING WALL
RUNNING WALL
Laterally Supported Wall


Drawings Courtesy
Britt Ripley, architect
60° MIN.
BRACING WALL
LATERALLY SUPPORTED WALL
Plan of Wall laterally supported at Minimum Angle


WIDTH
Drawing modified from Britt Ripley, architect
BOND BEAM RESTS ON TOP OF WALL AT THIS POINT
ADOBE
HEIGHT
2 COURSES ARE STABILIZED ADOBE TO MINIMIZE WATER RISING INTO WALL
2" MIN
CONCRETE STEM
2" MIN
6"
GRADE
Minimum of either: 2-no. 4 reinforcing in stem or, 2-no. 4 reinforcing in footing.
CONCRETE FOOTING
Typical Adobe Wall
adobe wall Section





drawings courtesy Britt Ripley, architect

HEALTH & SAFETY CODE

Section 1-203. Permits.

Subsection (b) of Section 301 of the Uniform Building Code, Section 1-201 of this Article, is amended to read as follows:

(b) Exempted Work. A building permit shall not be required for the following:

1. One-story detached accessory buildings used as tool and storage sheds, playhouses and similar uses, provided the projected roof area does not exceed 225 square feet.

2. Fences not over 6 feet high.

3. Oil derricks.

4. Movable cases, counters and partitions not over 5 feet high.

5. Retaining walls which are not over 4 feet in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding flammable liquids.

6. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed two to one.

7. Platforms, walks and driveways not more than 30 inches above grade and not over any basement or story below.

8. Painting, papering and similar finish work.

9. Temporary motion picture, television and theater stage sets and scenery.

10. Window awnings supported by an exterior wall of Group R, Division 3, and Group M Occupancies when projecting not more than 54 inches.

11. Prefabricated swimming pools accessory to a Group R, Division 3 Occupancy in which the pool walls are entirely above the adjacent grade and if the capacity does not exceed 5,000 gallons.

12. Traditional dwellings constructed by or on behalf of members of the Colorado River Indian Tribes.

Unless otherwise exempted, separate plumbing, electrical and mechanical permits will be required for the above exempted items.

Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.

CHAPTER 3. UNIFORM HOUSING CODE

Section 1-301. Uniform Housing Code.

That certain code entitled "Uniform Housing Code," l982 Edition, including all revisions thereto, copyrighted by the International Conference of Building Officials, is hereby referred to, adopted and made a part of this Section the same as though said code was specifically set forth in full herein. Each succeeding edition of said code, including all revisions thereto, shall automatically supersede all previous editions thereof and revisions thereto. A copy of said code shall be filed in the office of the Chairman of the Tribes.

CHAPTER 4. UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS

Section 1-401. Uniform Code for the Abatement of Dangerous Buildings.

That certain code entitled "Uniform Code for the Abatement of Dangerous Buildings," 1982 Edition, including all revisions thereto, copyrighted by the International Conference of Building Officials, is hereby referred to, adopted and made a part of this Section the same as though said code was specifically set forth in full herein. Each succeeding edition of said code, including all revisions thereto, shall automatically supersede all previous editions thereof and revisions thereto. A copy of said code shall be filed in the office of the Chairman of the Tribes.

CHAPTER 5. UNIFORM PLUMBING CODE

Section 1-501. Uniform Plumbing Code.

That certain code entitled "Uniform Plumbing Code," 1982 Edition, including all revisions thereto, copyrighted by the Western Plumbing Officials Association, is hereby referred to, adopted and made a part of this Section the same as though said code was specifically set forth in full herein. Each succeeding edition of said code, including all revisions thereto, shall automatically supersede all previous editions thereof and revisions thereto. A copy of said code shall be filed in the office of the Chairman of the Tribes.

CHAPTER 6. NATIONAL ELECTRICAL CODE

Section 1-601. National Electrical Code.

That certain code entitled "National Electrical Code of 1982," including all revisions thereto, copyrighted by the National Fire Protection Association, is hereby referred to, adopted and made a part of this Section the same as though said code was specifically set forth in full herein. Each succeeding edition of said code, including all revisions thereto, shall automatically supersede all previous editions thereof and revisions thereto. A copy of said code shall be filed in the office of the Chairman of the Tribes.

CHAPTER 7. UNIFORM MECHANICAL CODE

Section 1-701. Uniform Mechanical Code.

That certain code entitled "Uniform Mechanical Code for 1982," including all revisions thereto, copyrighted by the International Association of Plumbing and Mechanical Officials, is hereby referred to, adopted and made a part of this Section the same as though the said code was specifically set forth in full herein. Each succeeding edition of said code, including all revisions thereto, shall automatically supersede all previous editions thereof and revisions thereto. A copy of said code shall be filed in the office of the Chairman of the Tribes.

CHAPTER 8. UNIFORM FIRE CODE

Section 1-801. Uniform Fire Code.

That certain code entitled "Uniform Fire Code," 1982 Edition, including all revisions thereto, copyrighted by the Western Fire Chiefs Association, is hereby referred to, adopted and made a part of this Section the same as though said code was specifically set forth in full herein. Each succeeding edition of said code, including all revisions thereto, shall automatically supersede all previous editions thereof and revisions thereto. A copy of said code shall be filed in the office of the Chairman of the Tribes.

* * *

ARTICLE 2. LIQUOR

[NOTE: Except as otherwise noted, the provisions of Article 2 of the Health and Safety Code were enacted on December 28, 1982 by Ordinance No. 82-4. As amended on September 9, 1983 by Ordinance No. 83-7, Article 2 was published in the Federal Register on January 20, 1984 at 49 FR 2534-38, and became effective February 19, 1984, pursuant to Section 2-105(B). Ordinance No. 84-8 amending Section 2-403 was published in the Federal Register on March 1, 1985 at 50 FR 8400 and became effective March 31, 1985 pursuant to Section 2-105(B). As amended by Ordinance 04-01, effective March 12, 2004, amending Sections 2-101, 2-103, 2-106, 2-208, 2-401, 2-502, and adding Chapter 6. Ordinance 04-01 was published in the Federal Register on Friday, September 28, 2007 at Vol. 72, No. 188, and became effective on September 28, 2007 pursuant to Section 2-105(B).]

CHAPTER 1. GENERAL PROVISIONS

Section 2-101. Definitions.

In this Article, unless the context otherwise requires:

(1) "Beer" means any beverage produced by the fermentation of barley malt, hops, or a combination of these, including beverages commonly known as porter, ale, and malt liquor, if they contain not more than twelve (12) percent alcohol (ethanol) by volume;

(2) "Bluewater Subdivision" means that portion of the Arizona side of the Colorado River Indian Reservation which is east of the townsite of Parker, and north of the centerline of the highway right-of-way of State Highway 95, comprising partial Sections, 4, 5, 8, 9, and 17 of Township 8 North, partial Sections 3, 6, 7, 10, 11, 14, 18, 19, 22, 23, 27, 30, 31, 32, and 34 and whole Sections 4, 5, 8, 9, 15, 16, 17, 20, 21, 28, 29, and 33 of Township 9 North, partial Sections 27, 28, 29, 31, 32, and 34, and whole Section 33 of Township 10 North, all of Range 19 West, and partial Sections 36 of Township 10 North, Range 20 West, all Gila and Salt River Base and Meridian, and partial Sections 17 and 18 of Township 1 North, Range 26 East, San Bernardino Base and Meridian;

(3) "Board" means the Liquor Control Board of the Tribes;

(4) "Broken Package" means any container of liquor on which the United States tax seal has been broken or removed, or from which the cap, cork, seal, or tab inserted by the manufacturer has been removed;

(5) "Council" means the Colorado River Indian Tribal Council;

(6) "License" means a liquor license issued pursuant to this Article;

(7) "Licensee" means any person issued a license pursuant to this Article;

(8) "Liquor" includes alcohol (ethanol) and beverages containing more than one-half of one percent (2%) by volume, including beverages commonly known as brandy, whiskey, rum, tequila, mescal, gin, wine, beer, malt liquor, and absinthe;

(9) "Off-Sale Retailer" means any person selling liquor in unbroken packages, to be consumed elsewhere;

(10) "On-Sale Retailer" means any person selling liquor in individual portions, by the glass, or in broken packages, for consumption at the place of sale;

(11) "Person" means any natural person, trustee, court appointed representative, syndicate, association, partnership, firm, club, company, corporation, business trust, institution, agency, government corporation, municipal corporation, district or other political subdivision, contractor, supplier, vendor, vendee, operator, user or owner, or any officers, agents, employees or other representative, acting either for himself of herself or for any other person in any capacity, or any other entity recognized by law as the subject of rights and duties. The masculine, feminine, singular or plural is included in any circumstance.

(12) "Premises" or "Licensed Premises" means the specific location or address at which a licensee is authorized to manufacture or sell liquor by the terms of his license;

(13) "Reservation" shall mean all territory within the exterior boundaries of the Colorado River Indian Reservation, as established by the Act of March 3, 1865 and delineated by the Executive Orders of May 15, 1876 and November 22, 1915.

(14) “Restaurant” means and includes any public place kept, used, maintained, advertised and held out to the public, as a place at which prepared food items for immediate consumption are served and/or prepared, whether or not consumed or intended to be consumed on the premises, but shall not include coin-operated automatic food dispensing machines.

(15) “Retailer” means any person or persons conducting a business within the boundaries of the Colorado River Indian Reservation that sells alcoholic liquor so as to entitle such person or persons to all or a portion of the net receipts from the sale thereof, and includes a Restaurant as defined above.

(16) "Sell" means to exchange for money or for goods, either for oneself or for another, and includes offering to sell liquor by display or by advertisement, and keeping or obtaining liquor with intent to sell it;

(17) "Tribal Court" means the Tribal Court of the Colorado River Indian Tribes;

(18) "Tribes" means the Colorado River Indian Tribes;

(19) "Wholesaler" means any person who sells liquor for subsequent resale, and includes the original manufacturer, distiller, brewer, vintner or bottler;

(20) "Wine" means any beverage produced by the fermentation of grapes or other fruits containing natural or added sugar, including those fortified with grape brandy, if they contain not more than twenty-four percent (24%) alcohol (ethanol) by volume.

[As Amended March 12, 2004, Ord. No. 04-01.]

Section 2-102. Referendum.

No license (other than a license for premises located within the Bluewater Subdivision, within the townsite of Parker, or within the California side of the Reservation) shall be issued unless approved by the members of the Tribes by referendum. Upon the request of a majority of the members of the Council present at a valid meeting, made within forty-five (45) days of the Board's decision to approve the application, or upon receipt of a petition signed by the eligible voters of the Tribes constituting at least one-third (1/3) of the number of voters who were registered at the last regular Tribal election, submitted to the Council within ninety (90) days of the Board's decision to approve the application, a referendum shall be scheduled by the Council. The referendum shall be held within ninety (90) days of the date it is requested, or the petition is submitted. The vote of a majority of the qualified voters in such referendum shall constitute approval or rejection of the license, provided that at least thirty percent (30%) of the registered voters shall have voted in such election.

Section 2-103. Persons Eligible.

(A) No license shall be issued to any person who, within one (1) year prior to application, has violated any provision of a license or has had a license revoked. No license shall be issued or renewed to any person who, within five (5) years prior to application, has been convicted of a felony. No corporation shall have a license issued or renewed unless it has on file with the Board a list of its officers and directors and any stockholders who own ten percent (10%) or more of the corporation. No corporation shall have a license issued or revoked if any of its officers or directors or any stockholders who own ten percent (10%) or more of the corporation have within five (5) years been convicted of a felony. No license shall be issued or renewed to any person who, within five (5) years prior to application has failed to pay any tax assessed pursuant to this Article or Title 20 Taxation of the Tribal Code.

(B) A corporation shall own the entire equitable interest in its license through an agent who is otherwise qualified to hold a license. The agent shall be subject to the penalties prescribed for any violation of this Article. Upon the death, resignation or discharge of any such agent of a corporation holding a license, the license shall be assigned to another qualified agent selected by the corporation and approved by the Board, but this shall not constitute a transfer in violation of Section 2-209, or constitute the issuance of a new license.

[As Amended March 12, 2004, Ord. No. 04-01.]

Section 2-104. Liquor Control Board.

The Liquor Control Board shall be composed of three (3) members and one (1) alternate member who shall be appointed by the Council for staggered terms of three (3) years each. The terms of the first three members of the Board shall expire at midnight on December 31, 1983, December 31, 1984, and December 31, 1985, respectively. The term of the first alternate member of the Board shall expire at midnight on December 31, 1983. Thereafter, all terms shall expire at midnight on December 31, three (3) years after they commence. The members of Board may be removed by Council for cause upon notice and hearing. No member of the Board may have any financial interest in any liquor establishment or liquor business located or operating on the Reservation, nor shall any member of the Board be a member of the Council.

Section 2-105. Effective Date; Repeal; Transition.

(A) Ordinance Nos. 11 and 14 of the Colorado River Indian Tribes, relating to the sale of liquor on the California and Arizona sides of the Reservation, respectively, including all amendments thereto, are hereby repealed.

(B) This Article shall be effective on the thirtieth (30th) day following the date of its publication in the Federal Register.

(C) Persons in possession of valid liquor licenses issued by the States of Arizona or California who apply for a Tribal license within thirty (30) days of the effective date of this Article, may continue to operate under this State license until their application for a Tribal license has been either approved or denied.

(D) In any hearing pursuant to Section 2-205, it will be presumed that the persons described in Subsection (C) of this Section have the capacity, qualifications, and reliability to merit approval of their applications. No other requirements of this Article will be waived or diminished.

Section 2-106. Severability.

If any section, provision, phrase, addition, word, sentence or amendment of this Article or its application to any person is held invalid for any reason whatsoever, such invalidity shall not affect other provisions or applications of this Article that can be given effect without the invalid application and to that end, the provision of this Chapter are declared severable.

[As Amended March 12, 2004, Ord. 04-01.]

CHAPTER 2. LICENSES; APPLICATION AND ISSUANCE; REGISTRATION

Section 2-201. License Required.

No person may sell liquor within the Reservation, or manufacture liquor within the Reservation for sale anywhere, except as specifically authorized by a license issued in accordance with this Article.

Section 2-202. Exceptions.

The provisions of this Article do not apply to the sale of liquor upon a physician's prescription, or to ethanol used or intended for use:

(1) for scientific research or manufacturing products other than liquor;

(2) by a physician, medical or dental clinic, or hospital;

(3) in preparations not fit for human consumption such as cleaning compounds and toilet products, or flavoring extracts; or

(4) by persons exempt from regulation in accordance with the laws of the United States.

Section 2-203. Registration of Salesmen.

No person may take or solicit orders for liquor within the Reservation without first registering his name, address, purpose, and the name and address of his employer or principal, on the forms prescribed by the Board. Registrations require renewal each calendar year.

Section 2-204. Applications.

(A) Applicants for a liquor license must file with the Board on the forms it prescribes.

(B) Upon receipt of an application, the Board shall fix a date for a public hearing to determine whether a license should issue. The hearing shall be held within sixty (60) days of the date of filing unless delayed at the request of the applicant.

(C) The Board shall issue a license only if satisfied of the applicant's capability, qualifications, and reliability, and that the best interests of the Reservation community will be served by the issuance of the license.

(D) Applications must disclose the identity of all persons who have an economic interest in the applicant's proposed business, and the nature and extent of their interests.

Section 2-205. Hearings.

(A) The Board shall adopt published rules and procedures for the conduct of hearings, in conformity with applicable Ordinances of the Tribes.

(B) The Board shall have the power to administer oaths and issue subpoenas, and to require the presence of persons and the production of papers, books and records.

(C) At a public hearing held by the Board, anyone with an interest in the application shall be allowed to present evidence and to cross-examine witnesses. This includes the applicant, any resident of the Reservation, and the owner or manager of any business located on the Reservation. The Board nevertheless may limit duplicative evidence.

Section 2-206. Public Notice.

(A) The Board shall give at least ten (10) days prior notice of any hearing on an application for a license. This shall include posting of a sign at a conspicuous place on the premises for which the application has been made, and publication in a local newspaper of general circulation on the Reservation.

(B) The notice posted on the premises must be at least twenty-two (22) inches wide and twenty-six (26) inches high, with letters at least one (1) inch high, and shall be placed so as to be conspicuous and plainly visible to the general public.

(C) All posted and published notices shall state the name and address of the applicant, the class of license applied for, the date of the hearing, and any other information the Board deems appropriate to apprise the public fully of the nature of the application. If the applicant is a partnership, notice shall include the names and addresses of all of the partners, and if the applicant is a corporation, notice shall include the names and addresses of its managing officers.

Section 2-207. Appeals.

Any decision of the Board denying a license may be appealed to the Council within twenty (20) days. The Council may uphold the decision of the Board, or may direct the Board to reconsider its decision, or to issue the license.

Section 2-208. Form of Licenses.

(A) Each license shall specify the name and address of the licensee, the particular liquors which the licensee is authorized to sell, the purpose for which the liquor may be sold, and the premises to which the license applies, and shall expire at midnight on December 31 of the calendar year in which it is issued.

(B) Each license may be issued for only one of the following classes:

(1) Class 1, on-sale retailer of liquor;

(2) Class 2, on-sale retailer of beer and wine only;

(3) Class 3, off-sale retailer of liquor;

(4) Class 4, off-sale retailer of beer and wine only; or

(5) Class 5, wholesaler.

(C) The licensee must keep the license posted at all times in a conspicuous place on the premises for which it has been issued.

(D) Licensees must pay all taxes assessed under this Article at the time the tax return is due.

(E) An application for the renewal of privileges for an additional year shall be treated as an application for a new license, except that fees shall be as provided by Section 2-210, the requirements of Section 2-102 shall be waived and, except for good cause, as determined by the Board, the requirements of Section 2-204 (B) shall also be waived.

[As Amended July 13, 1984, Ord. No. 84-8, § 1; March 12, 2004, Ord. No. 04-01.]

Section 2-209. Transfer or Modification of Licenses.

Any change in the terms of a license or, if the licensee is a partnership or corporation, change in its ownership, shall require the issuance of a new license in accordance with Sections 2-204 through 2-208.

Any attempt to transfer or assign a license is void and of no effect.

[As Amended October 11, 1986, Ord. No. 86-4, § 2.]

Section 2-210. Fees.

(A) Applications for an original license must be accompanied by a nonrefundable application fee of Two Hundred Dollars ($200.00). Applications for the renewal of a license must be accompanied by a nonrefundable application fee of Thirty-Five Dollars ($35.00).

(B) A license fee shall be paid before any license will be issued. The fee for a license shall be:

(1) Class 1 and Class 5 licenses, One Thousand Dollars ($1,000.00), and thereafter One Hundred Fifty Dollars ($150.00) per each succeeding year the license is renewed; and

(2) Class 2, Class 3 and Class 4 licenses, Five Hundred Dollars $500.00), and thereafter Seventy-Five Dollars ($75.00) per each succeeding year the license is renewed.

(C) The Board may, at the request of an applicant, limit a license to some number of months less than twelve (12), in which case the fee shall be one-tenth (1/10) of that provided in Subsection (B) of this Section for each month.

[As Amended July 13, 1984, Ord. No. 84-8, § 2.]

Section 2-211. Disposition of Fees and Fines.

All license fees and fines or other monies received by the Board pursuant to this Article shall be deposited in the general account of the Tribes.

CHAPTER 3. SPECIAL EVENT LICENSES

Section 2-301. Special Event Licenses.

(A) The Board may issue an on-sale Special Event license to qualified organizations authorizing the sale of liquor for consumption on the premises specified for up to four (4) days. The fee for this license shall be Twenty-Five Dollars ($25.00) per day. Applications must be made on the forms prescribed by the Board, and be accompanied by a nonrefundable application fee of Ten Dollars ($10.00).

(B) No organization may be issued more than four (4) Special Event licenses in any single year.

[As Amended July 13, 1984, Ord. No. 84-8, § 3.]

Section 2-302. Qualifications of Organizations.

A Special Event license may be issued only to an organization which has been formed for purposes of a religious, philanthropic, social, fraternal, patriotic, political or athletic nature, and not for profit, or which

is a charter branch, lodge or chapter of such an organization.

Section 2-303. Grounds for Denial.

(A) The Board may deny an application for a Special Event license if it believes the sale of liquor by the applicant would be injurious to the public welfare by reason of the nature of the proposed event, its location, or the applicant's failure to conduct itself in compliance with applicable laws and regulations in the past.

(B) Public notice of the application must be posted in a conspicuous place at the proposed location of the event for at least ten (10) days prior to approval of the application by the Board. The Board will receive and consider any written protests before acting.

CHAPTER 4. UNLAWFUL ACTS; VIOLATIONS; PENALTIES

Section 2-401. Management of Licensed Premises.

(A) No licensee may reseal, reuse, or refill any package that contains or contained liquor.

(B) No Class 1 or Class 2 licensee may lock, or permit the locking of the entrances to the licensed premises until all persons other than the licensee and his employees have left.

(C) No licensee may change the name of his licensed premises without first obtaining written acknowledgment from the Board.

(D) Each licensee must conduct his business in a decent, orderly and respectable manner, and not permit loitering by intoxicated persons, rowdiness, undue noise, or any other disturbance offensive to the residents of the Reservation.

(E) Licensees must keep all books of account, invoices, bills and other records of the purchase and sale of liquor for at least two (2) years, and surrender them to the Board, or to an auditor appointed by the Board, on demand.

(F) Licensees must pay all taxes assessed under this Article at the time the tax return is due.

[As Amended March 12, 2004, Ord. No. 04-01.]

Section 2-402. Laws of the United States.

Licensees must comply with all applicable laws of the United States governing the manufacture, distribution and sale of alcohol and alcoholic beverages.

Section 2-403. Violations.

It is unlawful:

(1) to sell liquor without first obtaining all necessary federal licenses, including a license to trade with the Indians in accordance with Title 25 of the United States Code;

(2) to sell liquor without first obtaining a license in accordance with the provisions of this Article;

(3) to sell liquor in violation of the terms of a license issued pursuant to this Article;

(4) to take or solicit orders for the delivery of liquor from outside the Reservation, unless registered as a salesman in accordance with Section 2-203;

(5) to knowingly sell liquor to a person under the age of twenty-one (21) years;

(6) to knowingly employ a person under the age of twenty-one (21) years in the manufacture or sale of liquor, except as provided by Section 2-405;

(7) for a wholesaler, to transport liquor except in a vehicle conspicuously marked on its outside with the name and address of the wholesaler, and the number of his license, in letters at least three (3) inches high;

(8) for a Class 1, Class 2, Class 3, or Class 4 licensee, to obtain liquor in unbroken packages except from a Class 5 licensee or from a salesman registered in accordance with Section 2-203;

(9) for a Class 1, Class 2, Class 3, or Class 4 licensee, to have any interest in the property or business of a Class 5 licensee or any other wholesale of liquor;

(10) for a Class 1, Class 2, Class 3, or Class 4 licensee, or his employee, to consume liquor or be intoxicated while selling liquor on the licensed premises;

(11) for a Class 1, Class 2, Class 3, or Class 4 licensee, or his employee, to accept or give gifts of liquor in connection with his business, except for the sampling of wines and beers as provided by a wholesaler in the ordinary course of the trade;

(12) for a Class 1, Class 2, Class 3, Class 4 licensee, or his employee, to sell or give any liquor to any person on the licensed premises between the hours of one o'clock a.m. and six o'clock a.m., Mondays through Saturdays, or one o'clock a.m. through twelve o'clock noon on Sundays, on the Arizona side of the Reservation, or between the hours of two o'clock a.m. and six o'clock a.m., Pacific Standard or Daylight time, whichever is then generally in effect in California, on the California side of the Reservation, or permit the consumption of liquor on the licensed premises in those places during those hours and those days;

(13) for a Class 1 or Class 2 licensee, to employ any person for the purpose of soliciting the purchase of liquor within the licensed premises, on a percentage basis or otherwise.

(14) for a Class 1 or Class 2 licensee to sell liquor without insurance covered as required in Section 2-408(B); or

(15) for a Class 3 or Class 4 licensee, to sell liquor in broken packages, or permit the consumption of liquor on the licensed premises.

[As Amended September 9, 1983, Ord. No. 83-7, § 1; July 13, 1984, Ord. No. 84-8, § 4; October 11, 1986, Ord. No. 86-4, § 3.]

Section 2-404. Penalties.

(A) Every person violating the provisions of Section 2-403 is guilty of a misdemeanor and shall be punished by a fine of not more than Five Hundred Dollars ($500.00), or by imprisonment for not more than six (6) months, or both. Each day during which any such violation shall continue, after written notice to the person in violation, shall constitute a separate offense, punishable as herein provided.

(B) Every person violating the provision of Section 2-403 shall forfeit to the Colorado River Indian Tribes in a civil action a sum of not more than Five Hundred Dollars ($500.00) for each violation. Each day during which such violation shall continue shall constitute a separate civil violation of such Section.

(C) Subsection (A) of this Section shall not be construed to authorize the imposition of any criminal penalty against any person who, because of his status as a non-Indian or otherwise, pursuant to Federal law is not subject to the imposition of criminal penalties by the Colorado River Indian Tribes.

[As Amended September 9, 1983, Ord. No. 83-7, §§ 2 and 3.]

Section 2-405. Construction; Exceptions.

(A) If an act is unlawful, pursuant to Section 2-403, when committed by the licensee, the licensee is also liable if the act is committed by one of his employees or agents. A licensee may not be imprisoned, however, for the act of an employee or agent in which he did not knowingly conspire or agree.

(B) Nothing in this Section or in Section 2-403 shall be construed to prevent the employment of persons under the age of twenty-one (21) years in the delivery of unbroken packages of liquor, or the serving of individual portions of liquor from broken packages on licensed premises, if the licensee is chiefly engaged in the sale of food, and the employee chiefly employed in delivering or serving food.

[As Amended October 11, 1986, Ord. No. 86-4, § 4.]

Section 2-406. Intoxication.

It is unlawful:

(1) to consume liquor from a broken package in a public place, other than premises specified in a Class 1 or Class 2 license, or a Special Event license; or

(2) for a Class 1 or Class 2 licensee, or his employee, to sell or give liquor to an intoxicated person within the licensed premises, or permit an intoxicated person to remain on the premises.

Section 2-407. Penalties.

(A) Every person violating the provision of Section 2-406 is guilty of an offense and shall be punished by a fine of not more than One Hundred Dollars ($100.00), or by imprisonment for not more than one (1) month, or both.

(B) Every person violating the provisions of Section 2-406 shall forfeit to the Colorado River Indian Tribes in a civil action a sum of not more than One Hundred Dollars ($100.00) for each violation.

(C) Subsection (A) of this Section shall not be construed to authorize the imposition of any criminal penalty against any person who, because of his status as a non-Indian or otherwise, pursuant to Federal law is not subject to the imposition of criminal penalties by the Colorado River Indian Tribes.

[As Amended September 9, 1983, Ord. No. 83-7, §§ 4 and 5.]

Section 2-408. Civil Responsibility; Insurance.

(A) Licensees under this Article, and their employees, are liable for injuries or damage to property resulting from their negligent or reckless conduct, whether in the management of licensed premises, or in their violation of Section 2-406 (2).

(B) All Class 1 and Class 2 licensees shall maintain insurance coverage insuring against liability under Subsection (A) of this Section, in the amount of at least $1,000,000.00 for bodily injury to any one (1) person, $500,000.00 for any one (1) accident or personal injury, and $100,000.00 for property damage.

Section 2-409. Contraband.

(A) Any liquor found in the possession, custody or control of a person other than a licensee in accordance with this Article, which is offered or intended for sale may be seized by a law enforcement officer of the Tribes.

(B) Seized liquor no longer required for prosecution evidence by be sold for the benefit of the Tribes, or destroyed, under the supervision of the Board, after the right of appeal pursuant to Subsection (C) of this Section has expired.

(C) The legality of any seizure of liquor may be appealed to the Tribal Court within twenty (20) days of the seizure. The Tribal Court may order the seized liquor returned to the person from whom it was seized, if warranted, but may not assess damages or costs against the Board or the Tribes.

(D) For purposes of this Section only, the Tribes waive their immunity from suit.

CHAPTER 5. REVOCATION OF LICENSES.

Section 2-501. Revocation of Licenses.

(A) The Board may summarily suspend any license for up to fifteen (15) days upon a satisfactory

showing of imminent danger to the public welfare, or, after notice to the licensee and a public hearing, revoke the license.

(B) The board must hold a public hearing to determine the truth of every written complaint it receives alleging a violation of this Article by a licensee.

(C) The Board shall adopt published rules and procedures for the conduct of license revocation hearings providing, at a minimum, for the right of the licensee to appear and be represented by legal counsel.

Section 2-502. Grounds.

Grounds for suspension or revocation of a license include the violation of any of the provisions of this Article including the failure to pay all taxes at the time the tax return is due, the misrepresentation of a material fact in the licensee's application for a license, conviction of the licensee for a crime involving a maximum penalty of six (6) months imprisonment or more, and failure of the licensee to correct unhealthy or unsafe conditions on the licensed premises within a reasonable time after notice from the Tribes.

[As Amended March 12, 2004, Ord. No. 04-01.]

Section 2-503. Appeals.

(A) Suspension or revocation of a license may be appealed to the Tribal Court within twenty (20) days. The Tribal Court may reinstate a suspended or revoked license, if warranted, but may not assess damages or costs against the Board or the Tribes.

(B) For purposes of this Section only, the Tribes waive their immunity from suit.

CHAPTER 6. BAR, LIQUOR AND PACKAGE LIQUOR PRIVILEGE TAX

Section 2-601. General Purpose.

The Colorado River Indian Tribes has a significant interest in protecting the health, safety and general welfare of its members, the residents within the boundaries of the Reservation and those persons and businesses doing business on and/or visiting the Reservation. The purpose of the bar, liquor and package liquor privilege tax is to regulate and monitor the sale of alcohol within the boundaries of the Reservation and to raise revenues to fund health, safety and general welfare programs and services.

Section 2-602. Definitions.

In addition to the definitions in Section 2-101, for purposes of this Chapter, whenever any of the following words, terms or definitions is used herein, they shall have the meaning ascribed to them in this Chapter:

(1) “Bar” means and includes an establishment used, maintained, advertised and held out to the public as a place which serves liquor.

(2) “Department” shall mean the Department of Revenue and Finance of the Colorado River Indian Tribes which is responsible for the administration and enforcement of the tax revenue laws of the Tribes and the investigation, examination and audit of tribal finances, departments, offices, officers and employees.

(3) “Director” shall mean the Director of the Department of Revenue and Finance of the Colorado River Indian Tribes.

(4) “Packaged liquor at retail” means a place of business in which the premises are used for the retail sale of liquor in original package for consumption off the premises where sold.

(5) “Records” shall mean any books, papers, documents, memoranda, supporting documents, schedules, attachments, lists, computer records, electronic data, business records, papers, vouchers, accounts and financial statements.

(6) “Return” or “Tax Return” shall mean any form, report or document prescribed and approved by the Department for the return of a tax obligation including any supporting schedules, attachments, worksheets and lists.

(7) “Taxes” shall include taxes, interest, penalties and costs of collection assessed or imposed pursuant to this Chapter or Title 20: Taxation of the Tribal Code.

Section 2-603. Imposition of Tax.

There is hereby levied and imposed a tax upon the privilege of receiving a liquor license to sell liquor served or prepared at either a restaurant or bar within the boundaries of the Colorado River Indian Reservation and upon privilege of receiving a liquor license to sell packaged liquor at retail within the boundaries of the Reservation.

Section 2-604. Rate of Tax.

The tax rate imposed under this Chapter shall be established by the Tribal Council of the Colorado River Indian Tribes and shall be no less than two percent (2%) nor more than ten percent (10%) of the purchase price of the liquor. Until the tax rate is changed by Resolution of the Tribal Council, the current tax rate imposed under this Chapter shall be levied, imposed and collected at the rate of six and six-tenths percent (6.6%) of the purchase price of the liquor.

Section 2-605. Tax is Additional Tax.

The tax herein levied and imposed shall be in addition to al other taxes and fees.

Section 2-606. Exemptions.

The provision of liquor by a person or entity not occurring at a place of business held out as a retailer of such liquor is exempt from the provisions of this Chapter.

Section 2-607. Liability for Payment.

(1) The legal incidence of and liability for payment of said tax shall be on the "retailer."

(2) Each retailer within the boundaries of the Reservation, regardless of whether they are licensed under this Article, shall have the duty to collect and account for the tax imposed herein, and shall remit all due and owing taxes from the sale of liquor and/or packaged alcoholic liquor to consumers, whether such payment is by credit or cash, to the Department of Revenue and Finance at the time such payment is due.

Section 2-608. Collection of Tax.

The invoice, receipt or other statement of payment given to the consumer at the time of payment shall show the amount due under the tax provided herein which shall be stated separately on said invoice, receipt or statement. The retailer shall be liable for the payment of the tax to the Tribes, whether any additional fee is actually collected from the consumer.

Section 2-609. Payment of Tax.

Payment of the tax shall be made at the time the tax return is due.

Section 2-610. Administration.

All provisions of Title 20 of the Tribal Code, the Taxation Code, Article I, shall apply to this Chapter.

Section 2-611. Filing of Applications.

Upon filing an application for a license with the Board pursuant to Chapter 2 of this Article, all retailers intending to conduct business within the boundaries of the Reservation shall complete and file with the Department of Revenue and Finance an application for tax registration prior to conducting business. All retailers conducting business within the boundaries of the Reservation pursuant to a license issued under this Article shall complete and file with the Department an application for tax registration on a form prescribed by the Department within thirty (30) days of conducting business. Retailers conducting business within the boundaries of the Reservation on the effective date of this Article shall complete and file the applications referenced in this Section within thirty (30) days of the effective date of this Article.

Section 2-612. Filing of Return.

All retailers shall pay to the Department of Revenue and Finance all taxes under this Chapter. Each retailer that sells liquor and/or packaged liquor at retail within the boundaries of the Reservation shall file monthly tax returns showing tax receipts received during each monthly period on forms prescribed by the Department. The tax return shall be filed before the last day of the calendar month next succeeding the month for which the tax return is made and shall be accompanied by payment of all taxes due and owing for the month covered by said tax return.

Section 2-613. Records.

All retailers shall maintain and preserve complete and accurate books, records and accounts showing the gross receipts for sales of liquor and/or packaged liquor at retail and the taxes collected each day and shall make available such books, records and accounts to the Director of the Department of Revenue and Finance for examination for those periods of time prescribed in Article I, Chapter 8 of the Taxation Code.

Section 2-614. Failure to Pay Tax.

Taxes that are not remitted to the Department of Revenue and Finance on or before the due date are delinquent.

Section 2-615. Violations; Additional Penalties.

Any retailer which violates, disobeys, omits, neglects or refuses to comply with, or resists or opposes the enforcement of any of the provisions of this Chapter, may be assessed a penalty of not less than Seventy-Five Dollars ($75.00) nor more than Five Thousand Dollars ($5,000.00) for the first violation, and not less than One Hundred Fifty Dollars ($150.00), nor more than Five Thousand Dollars ($5,000.00) for the second violation, and not less than Three Hundred Dollars ($300.00) nor more than Five Thousand Dollars ($5,000.00) for a third violation, and not less than One Thousand Dollars ($1,000.00) nor more than Ten Thousand Dollars ($10,000.00) for the fourth and each subsequent violation, or five (5) times the amount of the tax imposed, if any, whichever is higher, for the second and each subsequent violation. A separate and distinct violation shall be regarded as committed each day said retailer continues any such violation, or permits any such violation to exist after notification thereof. The penalties imposed under this Chapter shall be in addition to the tax and in addition to those penalties, if any, imposed under Article I, Chapter 7 of the Taxation Code.

Section 2-616. Promulgation of Regulations.

The Director shall have the power to promulgate regulations for the enforcement of the provisions of this Chapter and the collection of revenues hereunder.

Section 2-617. Amendments.

The provisions of this Chapter may be amended at the discretion of the Tribal Council by Ordinance or Resolution.

Section 2-618. Failure to Remit; Licensing.

Collection and payment of this tax may be enforced by action in any court of competent jurisdiction and failure to account for or pay the tax by retailers of taxable alcoholic liquor shall be cause for revocation of any license of such retailer or applicable to the premises thereof, in addition to any other penalty provided in this Article.

Section 2-619. Application to the Tribes.

The provisions of this Chapter shall also apply to the Tribes including any governmental entity or

enterprise of the Tribes. For purposes of this Chapter, the Tribes, including any governmental entity or enterprise of the Tribes, if applicable, shall be considered a "retailer".

Section 2-620. Nondiscrimination.

No provision of this Chapter shall be construed as imposing a tax that discriminates on the basis of whether a bar, restaurant, packaged liquor store or similar establishment is owned, managed or operated by a member of the Tribes.

[As Amended March 12, 2004, Ord. No. 04-01.]

* * *

ARTICLE 3. FOOD SERVICE ESTABLISHMENTS

[NOTE: Except as otherwise noted, the provisions of Article 3 of the Health and Safety Code were enacted on May 14, 1983 by Section 2 of Ordinance No. 83-2.]

CHAPTER 1. GENERAL PROVISIONS

Section 3-101. Definitions.

As used in this Article, unless the context otherwise requires:

(1) "Contaminated" means containing any substance in excess of an established tolerance or in a quantity that may be injurious to human health, or containing harmful bacteria or other organisms, as well as any food processed, prepared or packed under unsanitary conditions making contamination likely, or which is produced from an animal that died other than by slaughter, or which is contained in a package composed in any part of toxic substances;

(2) "Department" means the Department of Health and Social Services of the Colorado River Indian Tribes;

(3) "Food" includes all substances intended for human consumption, whether nutritive or medicinal;

(4) "Food service establishments" include restaurants, cafeterias, and other places where food is prepared for immediate consumption, with or without charge, excluding private households, but including places which operate temporarily in connection with a rodeo, fair or other public event, as well as any place where food is cleaned, processed or packaged for sale elsewhere, or where uncooked meats, fruits, vegetables, fish or dairy products are offered for sale;

(5) "Food service worker" includes anyone who handles, processes or serves food or handles utensils in a food service establishment;

(6) "Health Inspector" means the Service Unit Director of the United States Public Health Service, Indian Health Service, Colorado River Service Unit at Parker, or his authorized representative, or some other person designated by Resolution of the Tribal Council;

(7) "Infectious or contagious disease" means any communicable disease except those which may from time to time be listed by the Department as exceptions from the requirements of this Article;

(8) "Inspected food processing establishment" means an establishment producing packaged food for resale by food service establishments, which is regularly inspected and approved by tribal, state or federal agencies satisfactory to the Department;

(9) "Misbranded" means bearing an identifying label which is illegible, deceptive or misleading, or which omits a material fact, as to the condition, nature, components, or quantity of food offered for sale;

(10) "Permit" means a food service permit issued pursuant to this Article;

(11) "Tolerance" means a maximum concentration or amount of a food coloring, food additive, pesticide or other substance established by the United States Food and Drug Administration and published in the Federal Register, or any additional or more restrictive standard established by the Department;

(12) "Tribal Council" means the Tribal Council of the Colorado River Indian Tribes;

(13) "Tribal Court" means the Tribal Court of the Colorado River Indian Tribes.

Section 3-102. Regulations.

(A) The Department may adopt regulations for the review of applications for permits, for the conduct of inspections, and for procedure in appeals; may establish guidelines for the interpretation of the standards contained in Chapter 4 of this Article; and may establish tolerances for food colorings, food additives, pesticides and other substances.

(B) Proposed regulations, guidelines and tolerances must be published for public review and comment for at least thirty (30) days prior to their adoption by the Department.

CHAPTER 2. PERMITS; ISSUANCE AND REVOCATION

Section 3-201. Permits Required.

No one may operate a food service establishment within the exterior boundaries of the Colorado River Indian Reservation without a valid food service permit issued in accordance with this Article.

Section 3-202. Application for Permit.

(A) Application for a food service permit must be made in writing to the Department on the forms it prescribes, and shall include the name, address and signature of the applicant, the name and address of the food service establishment and a legal description of its location, a description of the type of food processing or service to be provided, financial references and specific identification of the applicant's previous experience if any in the operation of food service establishments.

(B) The Department will grant the permit only if it is satisfied, after reviewing the application and an inspection report submitted by the Health Inspector, that operation of the establishment in the manner proposed will comply with Chapter 4 of this Article.

Section 3-203. New Ownership or Operation.

Application for a new permit must be made within ten (l0) days of any change in the ownership or operation of a food service establishment. Failure to apply within this period may result in revocation of any existing permit, and may be grounds for refusal by the Department to issue a new permit.

Section 3-204. Structural Modifications.

Prior to any significant structural alteration or addition to a food service establishment, the permittee

must file two (2) copies of the plans and specifications to the Department for review by the Health Inspector. Failure to obtain Departmental approval for structural changes may result in revocation of any existing permit.

Section 3-205. Granting and Denial; Notice.

(A) An applicant must be notified within ten (l0) days of any decision by the Department to grant or deny a permit.

(B) Notice of denial shall be in writing and is effective when personally delivered to the applicant, upon receipt by certified mail by the applicant, or when posted conspicuously at the food service establishment.

Section 3-206. Revocation; Notice.

(A) A permit may be revoked as provided under this Article. Revocation of a permit is effective upon notice, unless a later date is specified in the notice of revocation.

(B) Notice of revocation shall be in writing and is effective when personally delivered to the permittee, upon receipt by certified mail by the permittee, or when posted conspicuously at the food service establishment.

Section 3-207. Form of Permits; Renewal; Fees; Waiver.

(A) Each permit shall expire on December 3l of the calendar year in which it is issued.

(B) The permittee must keep the permit posted at all times in a conspicuous place at the establishment for which it has been issued.

(C) An application for the renewal of a permit shall be treated as an application for a new permit.

(D) An application for a permit must be accompanied by a nonrefundable application fee of Twenty-five Dollars ($25.00). No further fees will be charged for the issuance of a permit. Fees will be waived for applications for permits to operate temporarily in connection with a rodeo, fair, or other public event.

Section 3-208. Disposition of Fees and Fines.

All permit fees and fines or other monies received by the Department pursuant to this Article shall be deposited in the general account of the Tribes.

CHAPTER 3. INSPECTIONS AND COMPLIANCE

Section 3-301. Inspections.

(A) The Health Inspector may enter a food service establishment at any time food service workers are present to examine equipment and procedures, and to obtain samples of food or other substances for

laboratory analysis.

(B) Any attempt by the owner, operator, or employees of a food service establishment to prevent, obstruct or restrict an inspection will result in revocation of any existing permit.

(C) Inspections of food service establishments will be made at least twice yearly, and as often as the Health Inspector and Department deem advisable for the protection of public health and safety.

Section 3-302. Inspection Reports.

Before leaving a food service establishment, the Health Inspector will leave one (l) copy of his report with the owner, operator, or food service workers. A second copy will be filed with the Department with the Health Inspector's recommendations.

Section 3-303. Warnings.

(A) On the recommendation of the Health Inspector following an inspection, the Department may issue a written warning to the permittee identifying corrective actions that must be taken within a specified time to avoid permit revocation.

(B) Notice of warning is effective when personally delivered to the permittee, upon receipt by certified mail by the permittee, or when posted consciously at the food service establishment.

(C) If re-inspection does not satisfy the Health Inspector and Department that all corrective actions identified in a warning have been taken within the time specified, the food service permit for the establishment will be revoked with prejudice to any future application.

Section 3-304. Suspensions.

(A) In instances of immediate and unavoidable danger to public health and safety, the Department may, on the recommendation of the Health Inspector following an inspection, order suspension of a food service permit at once. An order of suspension is effective upon notice.

(B) Notice of suspension shall be in writing and is effective when personally delivered to the permittee, upon receipt by certified mail by the permittee, or when posted conspicuously at the food service establishment.

(C) A suspension remains in effect until the permittee satisfies the Health Inspector and Department that adequate measures have been taken to correct the conditions which resulted in the order.

Section 3-305. Contagion.

(A) On the recommendation of the Health Inspector that a food service worker is likely to communicate a contagious or infectious disease to patrons or employees of a food service establishment, the Department may:

(1) Order suspension of a food service permit under Section 3-304.

(2) Order the immediate exclusion of the food service worker from all food service establishments by notice to those establishments.

(3) Require medical examinations of the food service worker and others with whom he recently worked as a condition for their continued employment or re-employment.

(B) An order of exclusion of a food service worker is effective upon notice.

(C) Notice of an exclusion order shall be in writing and is effective when personally delivered to a permittee or posted consciously at a food service establishment and shall be deemed effective with respect to a food service worker when posted consciously at his last place of food service employment.

Section 3-306. Condemnation of Foods.

(A) On the recommendation of the Health Inspector, the Department may direct law enforcement officials of the Colorado River Indian Tribes to seize and destroy food which is contaminated or misbranded.

(B) Any attempt by the owner, operator, or employees of a food service establishment to prevent the seizure of contaminated or misbranded food may result in revocation of any existing permits.

(C) Before removing seized food from a food service establishment, law enforcement officials will leave an itemized receipt with the owner, operator, or food service employees present, or by posting conspicuously at the establishment.

(D) No seized food may be destroyed until at least ten (10) days after its seizure, or during an appeal under Section 3-601, unless it contains infectious or contagious bacterial or other organisms and poses an immediate danger to public health and safety.

CHAPTER 4. FOOD SERVICE STANDARDS

Section 3-401. Interpretation.

Where not inconsistent with this Article, or with the regulations, guidelines and tolerances adopted by the Department, the Food Service Sanitation Manual of the United States Public Health Service will be used as a guide in the interpretation of the standards contained in this Chapter.

Section 3-402. Health and Safety Standards; Waiver.

(A) As a condition of the privilege of operating a food service establishment, permittees must conduct their business in a safe, sanitary and conscientious manner, and at all times comply with the particular standards contained in this Chapter.

(B) Where it is impracticable for a permittee or proposed permittee to comply strictly with particular

standards contained in this Chapter, the Health Inspector or the Department may waive compliance with such standards if to do so will not endanger or adversely affect the health and safety of food service workers or the public.

Section 3-403. Handling of Food.

(A) All food must be obtained from inspected food processing establishments. No contaminated or misbranded food may be used, and raw, unprocessed fruits and vegetables must be washed before use.

(B) Food must be stored in a manner that minimizes spoilage, ordinarily at a temperature of forty-five degrees Fahrenheit (45° F.) or less, and adequately covered or contained against dust, dirt and other contamination.

(C) Poultry, pork, and stuffed meats must be cooked through to an internal temperature of at least one hundred and eighty degrees Fahrenheit (180° F.) before serving.

(D) Individual portions of food, once served to a patron, must not be served again unless they were hermetically sealed and were not opened or unwrapped.

Section 3-404. Cleaning Substances.

(A) Toxic substances must not be used or stored in the establishment, except for substances needed to clean and disinfect equipment, facilities and utensils.

(B) Substances used for cleaning and disinfection must be identified plainly by conspicuous labels, stored in sealed containers in a room separate from food handling and food storage areas, and used only in a manner that eliminates all possibility of contact with food.

Section 3-405. Clean Equipment.

(A) All equipment and utensils must be smooth-surfaced, durable, and easily cleaned, and must be kept in a clean and sanitary condition. When not in use, utensils must be stored in a clean, dry place.

(B) All food-contact surfaces must be corrosion-resistant, nonabsorbent (except for wooden surfaces used exclusively for baking), and readily accessible for cleaning, and must be kept free from garbage and unwashed utensils.

(C) All utensils and food-contact surfaces must be cleaned thoroughly after each use. Cooking surfaces must be cleaned at least once daily.

(D) Establishments which lack adequate facilities for cleaning and disinfecting eating utensils must use only single-service or disposable eating utensils, and must use each utensil only once.

Section 3-406. Employee Cleanliness.

(A) The establishment must provide an adequate number of conveniently located hand-washing facilities

for food service workers, including at a minimum both hot and cold running water, soap or detergent, and sanitary paper towels or warm-air hand dryers.

(B) Food service workers must maintain a high degree of personal cleanliness, wear outer garments laundered daily, and wash their hands before beginning each shift at work and as often during each shift as may be reasonable to minimize the possibility of contamination of food. Food service workers must wash their hands after using the toilet room.

(C) The establishment must provide conveniently-located toilet facilities for food service workers. Toilet rooms must have self-closing doors, hand- washing facilities with sanitary paper towels or warm-air hand dryers, and supplies of toilet tissue and feminine hygiene products, with adequate closed containers for disposal of paper rubbish. Toilet rooms must be thoroughly cleaned and disinfected daily.

(D) The Health Inspector may waive the requirements of Subsections (A) or (C) of this Section in individual cases of temporary food service establishments at fairs, rodeos, or other public events, provided that comparable public facilities for maintaining personal cleanliness are located reasonably nearby.

Section 3-407. Lockers and Dressing Rooms.

(A) Adequate facilities must be provided for the orderly storage of food service workers' clothing and personal belongings separate from food preparation, food storage and food service areas, and from places where utensils are washed or stored.

(B) If food service workers routinely change clothes at the establishment, an adequate number of dressing rooms or areas must be provided separate from food preparation, food storage and food service areas, and from places where utensils are washed or stored. Dressing rooms or areas must be cleaned at least once weekly.

Section 3-408. Lighting; Sanitation; Ventilation.

(A) Walls in areas where food is prepared, or where utensils or hands are washed, must be smooth, nonabsorbent, light-colored and readily accessible for cleaning, and must have washable surfaces wherever they may be splashed or sprayed.

(B) Floors in areas where food is prepared or stored, including refrigerated storage rooms, or where utensils or hands are washed, as well as all dressing rooms, locker areas, and toilet rooms, must be smooth, nonabsorbent and washable. Floor drains must be provided if floors are washed by flooding or hosing.

(C) Enclosed areas where food is served and eaten must be maintained in a clean and orderly condition, with a minimum of twenty-five (25) square feet of floor space per person served. Walls and ceiling must be constructed of materials that minimize dust and noise and are non-toxic, and which can be cleaned or painted.

(D) All areas where food is prepared or stored, or where utensils or hands are washed, as well as all

dressing rooms, locker rooms, toilet rooms, and exterior garbage and rubbish storage areas must be well lighted and ventilated. Ventilation hoods and fans must be designed to prevent condensation from falling onto food, utensils, or food-contact surfaces. Air filters, if used, must be cleaned or replaced frequently, and external vents must direct exhaust away from public walkways and streets.

Section 3-409. Water; Plumbing; Sewage.

(A) The establishment must have an adequate, safe and sanitary supply of water. Hot and cold running water under pressure must be provided in all areas where food is prepared, and where utensils are washed. If not available from a public water pipeline, water may be transported to the establishment and stored there in closed containers, provided containers are thoroughly cleaned before each use.

(B) Ice used for any purpose in the establishment must be made from safe, sanitary water, and must be transported, stored and handled in a manner that prevents contamination of food.

(C) Plumbing must be closed, corrosion-resistant, and located so that condensation does not fall on food, utensils, or food-contact surfaces.

(D) All sewage must be disposed of into a public water-carried sewerage system, or else into a septic tank sufficiently distant from the establishment which has been approved by the Department.

Section 3-410. Garbage and Vermin Control.

(A) All discarded wastes and residues from food and cleaning substances must be kept in leakproof, rodent-proof and nonabsorbent containers, tightly covered except when empty or in continuous use, until removed or destroyed. Other discarded material may be stored in an orderly manner in containers or rooms adequately separated from food preparation and food storage areas.

(B) Food grinders and trash compactors, if used, must be adequately separated from food preparation and food storage areas, and in a manner that facilitates cleaning and maintenance.

(C) Discarded food wastes and other material must not be allowed to accumulate in a manner that attracts rodents or insects, and must be removed or destroyed frequently.

(D) Effective measures must be taken to prevent rodent and cockroach infestations, and to minimize the presence of flies and other insects both in food preparation and food service areas. Under no circumstances may dogs, cats, birds or other animals be permitted in areas where food is prepared or where utensils or hands are washed.

Section 3-411. Disease Control.

(A) No one may work in a food service establishment while suffering from, or while a carrier of, any infectious or contagious disease.

(B) If the owner, operator or manager of an establishment has reason to believe that a food service worker is suffering from, or is a carrier of an infectious or contagious disease, he must notify the Health

Inspector promptly, either verbally or in writing, and furlough the food service worker until his condition is no longer contagious.

CHAPTER 5. VIOLATIONS; PENALTIES

Section 3-501. Criminal Penalties.

(A) Any person who operates a food service establishment without a valid permit, or under a suspended or revoked permit, is guilty of an offense and shall be punished by a fine of not more than One Hundred Dollars ($l00.00) or by imprisonment for not more than ten (l0) days, or both. Each day during which such unlawful operation shall continue shall constitute a separate offense, punishable as herein provided.

(B) Any person who knowingly operates a food service establishment in which contaminated food is served or sold, or in which food service workers suffer from or are carriers of infectious or contagious disease, is guilty of a misdemeanor and shall be punished by a fine of not more than Five Hundred Dollars ($500.00) or by imprisonment for not more than thirty (30) days, or both. Each day during which such unlawful operation shall continue shall constitute a separate offense, punishable as herein provided.

(C) Any person who prevents or obstructs an inspection conducted under Section 3-30l, or the seizure of food under Section 3-306, or who employs a diseased food service worker in defiance of an exclusion order under Section 3-305, is guilty of a misdemeanor and shall be punished by a fine of not more than Five Hundred Dollars ($500.00) or by imprisonment for not more than thirty (30) days, or both. Each day during which a diseased food service worker is employed in defiance of an exclusion order shall constitute a separate offense, punishable as herein provided.

(D) Any person who knowingly misbrands food, or knowingly sells or serves misbranded food in a food service establishment, is guilty of a misdemeanor and shall be punished by a fine of not more than Five Hundred Dollars ($500.00) or by imprisonment for not more than six (6) months, or both, depending on the nature and extent of the offense. Each day during which misbranded food is knowingly sold or served in a food service establishment shall constitute a separate offense, punishable as herein provided.

Section 3-502. Civil Penalties.

(A) Any person who operates a food service establishment without a valid permit, or under a suspended or revoked permit, shall forfeit to the Colorado River Indian Tribes a sum of not more than One Hundred Dollars ($l00.00) for each offense. Each day during which such unlawful operation shall continue shall constitute a separate civil violation of this Subsection.

(B) Any person who operates a food service establishment in which contaminated food is served or sold, or in which food service workers suffer from or are carriers of infectious or contagious disease, shall forfeit to the Colorado River Indian Tribes a sum of not more than Five Hundred Dollars ($500.00) for each offense. Each day during which such unlawful operation shall continue shall constitute a separate civil violation of this Subsection.

(C) Any person who prevents or obstructs an inspection conducted under Section 3-30l, or the seizure of food under Section 3-306, or who employs a diseased food service worker in defiance of an exclusion

order under Section 3-305, or who knowingly misbrands food, or sells or serves misbranded food in a food service establishment, shall forfeit to the Colorado River Indian Tribes a sum of not more than Five Hundred Dollars ($500.00) for each offense. Each day during which such diseased food service worker shall be employed in defiance of an exclusion order, and each day that such misbranded food shall be sold or served, shall constitute a separate civil violation of this Subsection.

Section 3-503. Civil Liability.

Anyone injured by reason of a violation of this Article by a food service establishment, or by consumption of any contaminated or misbranded food negligently processed or prepared by a food service establishment, may recover actual and punitive damages from the owner of the establishment in Tribal Court.

CHAPTER 6. ADMINISTRATIVE APPEALS

Section 3-601. Appeals.

(A) The decision of the Department to deny a food service permit, to revoke or suspend a permit, to issue a warning, to exclude a food service worker from employment, or to seize contaminated or misbranded food may be appealed by filing a written petition with the Department within ten (l0) days of notice of the decision, or, in case of seizures, within ten (l0) days of the seizure.

(B) Revocation of a permit under Sections 3-203 or 3-204, warnings under Section 3-303, and the destruction of food seized under Section 3-306, except as provided therein, will be stayed automatically pending an appeal.

(C) Appeals from decisions to suspend a permit, exclude a food service worker from employment, or from a seizure of contaminated or misbranded food will be heard and determined within seventy-two (72) hours. All other appeals will be heard and determined within ten (l0) days. These times may be extended at the petitioner's request.

(D) Hearings on appeal will be public and of record. The petitioner has a right to counsel at his own expense, to produce evidence, and to obtain a written transcript of the proceedings at his own expense.

Section 3-602. Judicial Review.

(A) Anyone aggrieved by a determination of the Department under Section 3-60l may appeal such determination within twenty (20) days to the Tribal Court. The Tribal Court may stay any action of the Department pending review. The Tribal Court may grant declaratory or injunctive relief from an arbitrary or unreasonable decision, or unlawful action, but may not assess damages or costs against the Department or the Tribes.

(B) For purposes of this Section only, the Tribes waive their immunity from suit.

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ARTICLE 4. COLORADO RIVER FLOODING

[NOTE: Except as otherwise noted, the provisions of Article 4 of the Health and Safety Code were enacted on November 10, 1983 by Section 2 of Ordinance No. 83-8.]

CHAPTER 1. GENERAL PROVISIONS.

Section 4-101. Findings and Purpose.

(A) A state of emergency has existed within the Colorado River Indian Reservation due to excessive water flows in the Colorado River, which flows have caused severe erosion damage to the banks of the Colorado River and adjacent property.

(B) There is a continuing threat that excessive water flows will resume in the future.

(C) Water flows within the Colorado River in excess of 30,000 CFS have resulted in and can be expected to result in severe erosion damage to the banks of the Colorado River and adjacent property within the Reservation.

(D) The operation of motorized watercraft during a time of water flows in excess of 30,000 CFS has caused and can be expected to cause immediate, severe and irreparable damage to the banks of the Colorado River and adjacent property due to the increased water turbulence.

(E) The operation of motorized watercraft within certain areas of the Colorado River within the Reservation during a period in which water flows do not exceed 30,000 CFS may cause immediate, severe and irreparable damage to portions of the banks of the Colorado River and to adjacent property.

(F) The Tribal Council has the authority pursuant to Article VI of the Constitution of the Colorado River Indian Tribes to adopt laws in the exercise of the police power of the Tribes whenever necessary or convenient for the protection of the health, education and welfare of the members of the Tribes and the safeguarding of the peace, order, safety and welfare of the Reservation public.

(G) The Tribal Council has the authority pursuant to Article VI of the Constitution of the Colorado River Indian Tribes to delegate authority to subordinate bodies.

(H) By the adoption of the provisions of this Article, the Tribal Council intends to exercise to the fullest extent its Constitutional authority to protect Tribal property and the property of the Reservation public from damage caused by excessive water flows in the Colorado River.

Section 4-102. Definitions.
Unless the context otherwise requires, in this Article:

(1) "CFS" means cubic feet per second.

(2) "Reservation" means all territory within the exterior boundaries of the Colorado River Indian Reservation.

Section 4-103. Severability.

If any provision of this Article, or its application to any person or class of persons, or to any circumstances, is held invalid for any reason whatsoever the remainder of its provisions shall not be affected and shall remain in full force and effect.

CHAPTER 2. EMERGENCY DECLARATIONS

Section 4-201. Delegation.

There is hereby delegated to the Administrative Committee of the Tribal Council the authority to declare a state of emergency with respect to all or any part of the Colorado River and adjacent areas which are contained within the Reservation. There is further delegated the Administrative Committee of the Tribal Council the authority to order remedial or protective action during the pendency of any declared emergency.

Section 4-202. Declaration of Emergency.

(A) A state of emergency may be declared pursuant to this Chapter with respect to all or any part of the Colorado River and adjacent areas within the Reservation whenever:

(1) The Administrative Committee shall find that water flow in the River is in excess of 30,000 CFS; or

(2) The Administrative Committee shall find that water flow in the River of less than 30,000 CFS is likely to cause substantial property damage along some, but not all, portions of the River contained within the Reservation.

(B) Whenever the Administrative Committee shall find that the conditions warranting an emergency declaration have ceased to exist with respect to all or any part of the River, it shall rescind its emergency declaration with respect to affected areas.

CHAPTER 3. REMEDIAL OR PROTECTIVE ACTION

Section 4-301. Remedial or Protective Action.

During the pendency of any emergency declared pursuant to Chapter 2 of this Article, the Administrative Committee may order that remedial and protective action be taken. Such action may include but not be limited to, closure of all boat ramps within areas subject to the declaration of emergency and the total closure of all or any part of the Colorado River which is within the Reservation.

Section 4-302. Exceptions.

Section 4-301 of this Article shall not be construed to prevent law enforcement officials of the Tribal, federal, state or local governments from launching or operating any motorized watercraft in the performance of their official duties.

CHAPTER 4. UNLAWFUL ACTS; PENALTIES

Section 4-401. Unlawful Acts.

It shall be unlawful:

(1) For any person to violate, or attempt to violate, any remedial or protective order made pursuant to Chapter 3 of this Article.

(2) For any person to interfere, or attempt to interfere, with a law enforcement official in his enforcement of any remedial or protective order made pursuant to Chapter 3 of this Article.

Section 4-402. Penalties.

Any person violating any provision of Section 4-401 of this Article shall be liable to the Colorado River Indian Tribes in a civil action for a civil penalty not to exceed Two Hundred Fifty Dollars ($250.00) for each violation. In addition, such person shall be liable to the Tribes for the amount of actual damage caused to Tribal property as a result of such violation.

* * *

HEALTH & SAFETY CODE

ARTICLE 5. COMMUNICABLE DISEASE PREVENTION

[NOTE: Except as otherwise noted, the provisions of Article 5 of the Health and Safety Code were enacted on March 10, 1984 by Ordinance No. 84-2.]

CHAPTER 1. GENERAL PROVISIONS

Section 5-101. Definitions.

(1) "Contagious or communicable disease" means any disease capable of being transmitted from one person to another except those which may from time-to-time be listed by the Department as exceptions from the requirements of this Article.

(2) "Department" means the Department of Health and Social Services of the Colorado River Indian Tribes.

CHAPTER 2. RECORD OF COMMUNICABLE DISEASES

Section 5-201. Report of Communicable Diseases.

Any person who learns of the existence of a contagious or communicable disease shall immediately make a written report of the particulars to the Department. The report shall include names and, addresses, if known, of persons afflicted with the disease. If the person reporting is an attending physician he shall report on the condition of the person afflicted and the status of the disease at intervals requested by the Department.

Section 5-202. Information Required from Afflicted Persons; Required Examination.

(A) Any person afflicted with a contagious or communicable disease shall give the Department any and all pertinent information regarding said disease, including the name and address of any person from whom the disease may have been contracted and to whom the disease may have been transmitted.

(B) Any person afflicted with a contagious or communicable disease shall from time-to-time, at the request of the Department, submit to examination to determine the condition of the disease.

Section 5-203. Immunity of Informants.

Any person providing information pursuant to this Chapter shall be immune from any civil or criminal liability by reason of such action unless such person acted with malice and without probable cause.

Section 5-204. Department's Duty to Investigate and Adopt Control Measures.

Upon being informed of the possible existence of any contagious or communicable disease, the Department shall immediately make an investigation. If such disease does exist, the Department shall adopt reasonable measures to prevent spread of the disease.

CHAPTER 3. CONTROL MEASURES

Section 5-301. Dissemination of Information; Voluntary Treatment.

The Department shall cooperate with other health care providers or agencies in disseminating information regarding contagious or communicable diseases and shall whenever possible make reasonable efforts to encourage any person afflicted with a contagious or communicable disease to voluntarily accept treatment for such disease prior to initiation of any other action under this Chapter.

Section 5-302. Quarantine.

(A) Whenever in the judgment of the Department it is necessary for the protection or preservation of the public health, the Department may quarantine, isolate, inspect and disinfect persons, animals, houses or other property.

(B) When quarantine or isolation is established, the Department shall have the authority to issue orders respecting such quarantine or isolation and all persons shall obey said orders.

(C) A person subject to quarantine or isolation, residing or present in a quarantined building, house, structure, or other shelter, shall not go beyond the lot upon which the building, house, structure, or other shelter is situated, nor put himself in immediate communication with any person not subject to quarantine, other than the physician, health officer or persons authorized by the Department.

Section 5-303. Destruction of Infected Property.

The Department may destroy bedding, carpets, household goods, furnishings, materials, clothing, animals or other property, when ordinary means of disinfection are considered unsafe, and when the property is, in the judgment of the Department, an imminent menace to the public health.

Section 5-304. Initiation of Legal Proceedings.

The Department may request initiation of legal proceedings for violation of the provisions of Section 3-401 of this Article. Legal proceedings shall be initiated by the Tribal Prosecutor upon the request of the Department.

CHAPTER 4. UNLAWFUL ACTS; PENALTIES; INAPPLICABILITY OF PRIVILEGES

Section 5-401. Unlawful Acts.

It is unlawful for any person to:

(1) refuse to give any information or make any report required by Chapter 2 of this Article.

(2) refuse to submit to any examination required by Chapter 2 of this Article.

(3) refuse to comply with any proper control measure established by the Department under Chapter 3 of

this Article.

(4) violate or refuse to comply with any order of the Department issued pursuant to Chapter 3 of this Article.

(5) knowingly expose any person to, or infect any person with, any contagious or communicable disease.

Section 5-402. Penalties.

(A) Every person violating the provisions of Section 3-401 is guilty of a misdemeanor and shall be punished by a fine of not more than Five Hundred Dollars ($500.00), or by imprisonment for not more than six (6) months, or both.

(B) Every person violating the provisions of Section 3-401 shall forfeit to the Colorado River Indian Tribes a sum of not more than Five Hundred Dollars ($500.00) for each offense.

Section 5-403. Suspended Penalties.

Any person fined, sentenced or assessed a civil penalty pursuant to Section 3-401 (2), (3) or (5) shall be entitled to have such fine, sentence or civil penalty suspended if proper medical treatment is voluntarily undertaken and thereafter successfully completed as evidenced by certification from a licensed physician.

Section 5-404. Inapplicability of Certain Privileges.

In any proceeding initiated for violation of any provision of this Article, or in any habeas corpus or other proceeding in which the legality of a quarantine or isolation is questioned, any physician, health officer, spouse, or other person shall be competent and may be required to testify against any person against whom such proceeding was initiated, and any privileges provided by statute or common law are not applicable to or available in any such proceeding.

* * *

ARTICLE 6. FIRE PREVENTION AND SAFETY

[NOTE: Except as otherwise noted, the provisions of Article 6 of the Health and Safety Code were enacted on February 8, 1985 by Ordinance No. 85-1, and amended on September 12, 2009, by Ordinance 09-03.]

CHAPTER 1. ORGANIZATION AND PROCEDURES

Section 6-101. Scope and Intent.

(A) It is the intent of this Article to safeguard life and property from the hazards of fire and explosion by enforcing nationally-recognized standards in construction and handling of flammable materials. Its provisions will be construed liberally to achieve that objective.

(B) This Article applies to all persons, buildings and places within the Colorado River Indian Reservation, and to existing conditions as well as those arising after its enactment. In the discretion of the Fire Chief, owners and operators of noncomplying property existing on the date of enactment will be allowed from six (6) months to two years to bring it into compliance, without penalty.

(C) Provisions of the Uniform Fire Code 1982 Edition are incorporated by reference to "UFC" and set out in the appendix to this Article. Future editions of the UFC supersede the 1982 Edition automatically. Unless otherwise provided, words and abbreviations are used in this Article as defined in Article 9, UFC.

Section 6-110. Responsibility of Fire Chief.

(A) The Fire Chief appointed and employed at the pleasure of the Tribal Council has full authority to enforce the provisions of this Article, including the inspection of property, determination of compliance, investigation of the cause of fires, and promulgation of rules and regulations supplementing this Article.

(B) The Fire Chief has authority to take immediate control of all physical remains of a fire or explosion until he completes his investigation of its cause.

(C) The Fire Chief will make an annual report to the Tribal Council of all enforcement actions taken and the findings of all investigations.

(D) Wherever this Article refers to the Fire Chief, it includes persons employed by him for the purpose indicated.

Section 6-111. Enforcement Authority.

(A) The Fire Chief has authority to enter land and buildings whenever necessary to verify conditions for the issuance of a permit, or when he has reasonable cause to believe that the property is not in compliance with this Article. He will identify himself to the owner, operator or resident and request entry, and if refused entry, will obtain a search warrant from Tribal Court.

(B) The Tribal Police Department will assist the Fire Chief in enforcing the provisions of this Article

whenever called upon to do so.

Section 6-112. Regulations.

The Fire Chief may supplement this Article by the adoption of rules and regulations not inconsistent with it. Supplemental rules and regulations must be published in a newspaper of general circulation at least thirty (30) days before they become effective.

Section 6-113. Public Liability.

Neither the Fire Chief, when acting reasonably within the scope of his official responsibilities, nor the Colorado River Indian Tribes are liable for any damage to persons or property resulting from any inspection, fire control action, or decision to approve or disapprove a permit or use pursuant to chapter 2 of this Article.

Section 6-120. Abatement.

When the Fire Chief has reason to believe that a building is so hazardous to human life by reason of structural weakness, fire hazard, or inadequate egress, that its further use would constitute a present and practically irremediable public danger, he will report the matter in writing to the Tribal Attorney, who will bring a proceeding in Tribal Court to seize, destroy, or enjoin the use of the property as a public nuisance. Proceedings in abatement are without prejudice to any other remedy the Fire Chief may have against the owner of the property, such as citation.

Section 6-121. Compliance Orders; Seizure of Property.

(A) Whenever the Fire Chief finds any building, structure, equipment, or activity not in compliance with this Article, he may (1) issue a compliance order to the owner, operator or resident, identifying the violation and specifying a time limit for its correction; (2) tag the structure or equipment prohibiting its use until the violation has been corrected and he removes the tag; or (3) order the activity stopped, or the evacuation of the premises. Orders issued under this section shall be in writing and posted conspicuously on the building, structure or equipment affected if no responsible person can be found on the premises to accept the order.

(B) Any fire warden or other law enforcement official of the Tribes may seize any device, equipment or other property possessed and/or used in violation of any provision of this Article. Any person from whom such property is seized shall be charged with a violation of this Article. Seized property shall remain in the possession of either the fire chief or the Tribal Police Department, pending final disposition of any resulting court proceedings.

Section 6-122. Variances.

The Fire Chief may grant a temporary or permanent variance from the provisions of this Article on written application of the owner or operator of the property, if he finds that the proposed alternative is more practical and substantially as safe as the Article standard. Each variance must be noted on an approved sign or plaque posted conspicuously on the premises in public view.

Section 6-123. Penalties.

Anyone who (1) fails to comply with a written order of the Fire Chief, (2) obstructs an inspection or investigation, (3) removes or destroys a warning tag on property, (4) fails to obtain or abide by the terms of a permit required by section 6-201 of this Article, or (5) violates any provision of section 6-303 of this Article is subject to a civil penalty of One Hundred Dollars ($100.00). Each day of noncompliance with an order will be considered a separate violation.

Section 6-124. Citations.

The Fire Chief may issue written citations for collection of the civil penalties described in Section 6-123. Citations are payable to the Fire Chief within fifteen (15) days, unless sooner appealed. Failure to pay a citation is subject to a further penalty of Ten Dollars ($10.00) per day.

Section 6-130. Appeal.

(A) Anyone may challenge a compliance order, the denial of a permit or a citation by filing a civil complaint in Tribal Court. The Tribal Court may stay any action of the Fire Chief pending outcome of proceedings initiated under this section. The Tribal Court may grant declaratory or injunctive relief but may not in any circumstances afford relief in the nature of mandamus or assess against the Tribes, its subdivision, agents or elected officials any monetary liability of any nature whatsoever.

(B) In any action filed under this section, the decision of the Fire Chief shall be upheld unless clearly erroneous.

(C) For purposes of this Section only and only to the extent expressly set forth herein, the Tribes waive their immunity from suit.

Section 6-140. Administrative Delegations.

The Fire Chief may in his discretion delegate by contract any or all of his powers and duties under this Article to an independent fire district organized under the laws of the Colorado River Indian Tribes or the States of Arizona or California. Delegations do not divest the Fire Chief of concurrent authority to enforce the provisions of this Article by seeking abatements, issuing compliance orders, prosecuting for civil penalties, or revoking permits in consultation with the fire district. Fire districts will provide the Fire Chief with an annual report of fire operations, permits issued, and enforcement actions. Contracts shall be reviewed and approved by the Tribal Council prior to becoming effective.

CHAPTER 2. PERMITS

Section 6-201. Permit Requirements.

The following activities may be conducted only by persons, on premises and with equipment approved by the Fire Chief, as provided in written permit:

(1) Aircraft repair and refueling activities.

(2) Automobile wrecking yards and junkyards.

(3) Bonfires, rubbish fires, controlled burns, pile burns, crop stubble burns, open pit burns, and irrigation ditch burns, *but not* burns by tribal members for established religious or cremation purposes.

(4) Bowling pin refinishing or bowling alley resurfacing using flammable liquids or materials.

(5) Candles or open flames in restaurants, taverns, or places where 50 or more people gather for any purpose.

(6) Cellulose nitrate plastic (pyroxylin) manufacture, storage or use, unless the total on hand is less than 25 pounds.

(7) Combustible fibers storage or use, unless the total on hand is less than 100 cubic feet. This includes all readily ignitable and free-burning vegetable fibers such as cotton, sisal, hemp, jute, hay and straw, as well as baled wastepaper.

(8) Compressed gas storage or use, unless the total on hand is less than 2,000 cubic feet of flammable gas or 6,000 cubic feet of nonflammable gas.

(9) Cryogenic fluids production, storage or use, excepting fluids used in the fuel systems of motor vehicles, and quantities of less than one gallon of flammable, corrosive or highly toxic fluids, or less than fifty gallons of other cryogenic fluids. A cryogenic fluid is one that has a normal boiling point below -150 degrees Fahrenheit.

(10) Dry Cleaning, i.e., the business of cleaning by use of nonaqueous solvents.

(11) Dust-producing manufacturing activities that produce a combustible dust, including grain elevators and feed mills.

(12) Excavations below grade within 10 feet of any pipeline used to transport flammable or combustible liquids.

(13) Explosives and fireworks manufacture, storage, possession or use other than fireworks possessed or used in connection with public displays sponsored by the Colorado River Indian Tribes.

(14) Flammable or combustible liquids manufacture, storage or use, including the operation of tank vehicles and the construction, use, and demolition of pipelines and storage tanks, excepting fuel oil used for heating, liquids in the fuel tank of a motor vehicle or mobile power or heating device, paints and varnishes stored and used at a construction site for immediate use, and quantities of less than 5 gallons.

(15) Fruit-ripening processes involving the heating of enclosed storage spaces or the use of ethylene gas.

(16) Fumigation or thermal insecticidal fogging for the destruction of rodents, insects or fungi, when conducted as a business or profession.

(17) Garages and docks used to carry on the business of repairing or refueling motor vehicles.

(18) Hazardous materials storage, transportation or use, including more than 50 gallons of corrosive liquids, more than 500 pounds of oxidizing materials, more than 100 pounds of organic peroxides, more than 500 pounds of nitromethane, more than 1,000 pounds of ammonia nitrate or fertilizers containing ammonia nitrate, and any amount of highly toxic, pyrophoric, or hypergolic materials, or cryogenic or poisonous gases.

(19) High-piled storage of combustible materials, where the combined storage area exceeds 2,500 square feet and material is piled more than six feet high.

(20) Liquified petroleum gas containers, including transport vehicles, in excess of 120 gallons water capacity.

(21) Lumber yards containing more than 100,000 board feet.

(22) Magnesium casting or milling in excess of 10 pounds of metal per working day.

(23) Malls and other enclosed retail or assembly areas containing temporary display booths or concession stands, or where open flames, liquid or gas-powered equipment, or flammable liquids or gases are kept or operated.

(24) Matches manufacturing and storage exceeding an aggregate 60 matchman's gross (14,400 each gross).

(25) Nitrate film storage, use or handling.

(26) Oil and natural gas wells drilling or operation.

(27) Open-flame devises used for cooking or repairs on any boat, slip or wharf.

(28) Organic coatings and finishes manufacturing in excess of one gallon per working day. Included are liquid mixtures of binders such as alkyd, nitrocellulose, acrylic or oil and flammable and combustible solvents such as hydrocarbon, ester, ketone or alcohol.

(29) Ovens used for industrial baking or drying purposes.

(30) Parade floats construction and operation.

(31) Places of assembly where 50 or more persons regularly gather for any purpose.

(32) Radioactive materials storage or handling, involving more than 1 microcurie not contained in a field source, more than 1 millicurie contained in sealed sources, or any amount of material for which a specific license from the Nuclear Regulatory Commission is required.

(33) Refrigeration equipment installation or operation, unless the system employs only air, water, brine,

or Group 1 refrigerants with a refrigerant compressor or horsepower rating of less than 100. Group 1 refrigerants are identified in section 63-102, UFC.

(34) Spraying or dipping equipment utilizing flammable or combustible liquids, aerosols or powders for industrial coatings or finishings.

(35) Tents and air-supported structures covering more than 200 square feet unless used exclusively for outdoor camping.

(36) Tire recapping or rebuilding operations.

(37) Waste materials handling, transportation and disposal.

(38) Welding and/or cutting operations.

[As amended on September 12, 2009 by Ordinance 09-03.]

Section 6-202. Conditions of Permits.

(A) Permits will be issued only after the Fire Chief has inspected the premises and/or equipment, and is satisfied that they will be operated in a safe and lawful manner.

(B) Permits are non-transferable, shall remain valid until revoked unless a time limit is specified, and are subject to continued compliance with the standards and provisions of this Article.

(C) Permits must be kept on the premises designated, and shown to the Fire Chief and other law enforcement officers of the Colorado River Indian Tribes on request.

(D) A single master permit may be issued for all activities described in section 1-201 conducted by the same persons at the same location.

Section 6-203. Revocation of Permits.

A permit may be revoked if the Fire Chief determines, after giving the permittee reasonable written notice and an opportunity to be heard, that (1) it is being used by different persons or at a different location than those for which it was originally issued, (2) the permittee has violated any of the permit's conditions or limitations, or failed to comply with an order under section 1-121 of this Article, or (3) the application for the permit contained false or misleading statements of material facts.

CHAPTER 3. EMERGENCY OPERATIONS

Section 6-301. Authority of Fire Chief.

(A) In rescue operations and the investigation and control of fires, the Fire Chief has authority to (1) prevent the approach, or remove, any person, vehicle or thing which may interfere with the effective protection of persons and property, and (2) erect barricades across streets and other public or private

property for this purpose.

(B) The Fire Chief has authority to close private and public traffic on any public or private road on the Colorado River Indian Reservation for the purpose of fire prevention and control.

Section 6-302. Access to Buildings.

(A) An approved all-weather roadway of not less than 20 feet unobstructed width and 13 feet 6 inches vertical clearance must extend to within 150 feet of all buildings constructed after the enactment of this Article. Adequate turning space for fire vehicles must be provided on all dead-end roads in excess of 150 feet long unless they serve no more than two private dwellings or agricultural buildings. The Fire Chief may require the placement of NO PARKING or similar signs to prevent obstructions.

(B) The requirements of subsection (A) may be waived by the Fire Chief if adequate fire-protection systems as described in Chapter 4 have been installed on the premises.

(C) The Fire Chief may require the installation of a key box if emergency access to a building would be unduly difficult.

Section 6-303. Obstructing Fire Protection Activities.

Anyone who (1) obstructs fire-control or rescue operations at the scene of a fire or other emergency, (2) damages or removes any fire-protection apparatus as described in Chapter 4, such as fire alarms, extinguishers and hydrants, without authority from the Fire Chief, or as necessary for their repair or use in fire control, or (3) places any vehicle or other obstruction within 3 feet of any hydrant or water supply control valve so as to hinder its use, is punishable under section 339 of the Law and Order Code in the same manner as for obstructing the performance of police duties.

CHAPTER 4. FIRE-PROTECTION SYSTEMS

Section 6-401. Alarm and Extinguisher Apparatus.

All buildings and new construction must comply with sections 10.301 through 10-315, UFC, as they relate to the installation of adequate fire alarm and extinguisher systems.

Section 6-402. Fire Walls and Doors.

All buildings must have approved fire walls and doors to the extent required by sections 1-401 and 1-402, UFC, and the Uniform Building Code.

CHAPTER 5. FIRE SAFETY STANDARDS

Section 6-501. Application of UFC.

Except as provided by this Chapter or amended by regulation, the provisions of Articles 11 through 81 and Appendices I through IV, UFC, are applicable to all activities conducted within the Colorado River

Indian Reservation and will be enforced by the Fire Chief as a part of this Article.

Section 6-502. Limits for Storage of Hazardous Materials.

For the purposes of sections 77.106(b), 79.501, and 82.105(a), UFC, the limits established by law within which the storage of, (1) flammable and combustible liquids in outside above-ground tanks, (2) liquified petroleum gas in excess of 2,000 gallons water capacity, and (3) explosives and blasting agents is prohibited, are: the townsite of Parker, and the town and environs of Poston (defined as the Southeast Quarter of Section 35 and West half of Section 36, Township 8 North, Range 21 West) and MoChem Subdivision (defined as Southeast Quarter of Section 28, Township 9 North, Range 20 West).

* * *

ARTICLE VII. RABIES CONTROL

[Note: Except as otherwise noted, the provisions of Article VII of the Health and Safety Code were enacted on May 23, 1997 by Ordinance No. 97-2, effective July 1, 1997.]

CHAPTER 1. GENERAL PROVISIONS

Section 11-7101. Purpose.

This Article VII is adopted by the Tribal Council of the Colorado River Indian Tribes pursuant to Article VI, §1(v) of the Tribal Constitution. The purpose of this Article VII is to protect the health and safety of the people of the Colorado River Indian Tribes and surrounding communities from the threat of rabies by regulating the movement, impoundment and treatment of animals.

Section 11-7102. Definitions.

(a) "Administrative Committee" means the Administrative Committee of the Colorado River Indian Tribes.

(b) "Animal" means any animal of a species that is susceptible to rabies, including livestock but excluding humans.

(c) "At large" means a dog on its owner's premises and neither confined by an enclosure nor physically restrained by a leash under the control of an able bodied person.

(d) "Community Pound" means a site designated by the Fish and Game Department for the confinement, maintenance and safekeeping of animals.

(e) "Enforcement Officers" means those individuals or departments who are herein authorized by the Tribal Council of the Tribes to enforce this Article VII and the regulations promulgated thereunder.

(f) "Fish and Game Department" means the Fish and Game Department of the Colorado River Indian Tribes.

(g) "Leash" means to restrict the activity or free movement of any animal by a rope, cord or similar device not exceeding six feet in length.

(h) "Impound" means taking or receiving an animal into custody for the purpose of confinement in a community pound in accordance with the provisions of this Article VII.

(i) "Nuisance" means for the purposes of this Article VII, a nuisance is any animal creating a substantial and continuous disturbance or annoyance to an individual, their property or their animals.

(j) "Owner" means any person who owns an animal. For the purposes of this Article VII, the owner of an animal is a question of fact to be determined by the fact finder. Evidence that an individual feeds an animal creates a rebuttable presumption that the individual owns that animal. Matters to be considered in

determining ownership include, but are not limited to, providing sustenance, shelter or veterinary care to the animal on a consistent basis.

(k) "Permitted" means possessing a valid permit issued by the Colorado River Indian Tribes to operate a business or conduct an event.

(l) "Person" means an individual, trust, firm, association, Federal, Tribal or State government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

(m) "Quarantine" means the strict confinement of an animal either on the premises of the owner or in a manner directed by the Tribes' Fish and Game Department.

(n) "Rabies" for the purposes of this Article VII, the term "rabies" includes rabies, and any other animal disease dangerous to humans or other animals designated as falling under the provisions of this Article VII pursuant to regulations promulgated by the Fish and Game Department.

(o) "Rabies Quarantine Area" means an area in which a state of emergency has been declared to exist by the Fish and Game Department due to the occurrence of rabies in or adjacent to this area.

(p) "Rabies Vaccination Certificate" means a certificate, meeting all the requirements of this Article VII, certifying that a rabies vaccine has been administered.

(q) "Reservation" means the Colorado River Indian Reservation as established 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 fee patented and allotted lands used or claimed by any person, without regard to such person's membership in the Colorado River Indian Tribes.

(r) "Tribal Court" or the "Court" means the Colorado River Indian Tribes Tribal Court, as empowered and established by Article XII of the Constitution of the Colorado River Indian Tribes.

(s) "Tribes" means the Colorado River Indian Tribes.

(t) "Vaccination" means the administration of an anti-rabies vaccine to an animal by a veterinarian.

(u) "Valid dog tag" means a tag issued by the Colorado River Indian Tribes, the Town of Parker or La Paz County.

(v) "Veterinarian" means a veterinarian holding a valid or current license issued by any Tribal, State or Federal government.

(w) "Veterinary Hospital" means an establishment operated by a veterinarian, providing clinical facilities and housing animals for medical treatment. Pens, stalls, cages or kennels for quarantine, observation or boarding may be operated in conjunction with the hospital.

(x) "Vicious dog" means any dog, with the exception of dogs used in law enforcement activities, which when unprovoked has killed or inflicted serious bodily injury on a person; or on two separate occasions

within a prior 36-month period has killed or inflicted serious bodily injury on a domestic animal or engaged in behavior towards a person which required that individual to take defensive action in order to avoid serious bodily injury.

CHAPTER 2. DOGS

Section 11-7201. General.

It is a violation of this Article VII to own, harbor or maintain a dog except as provided for in this Article VII.

Section 11-7202. Dogs Not Permitted at Large.

It is a violation of this Article VII for the owner of a dog to permit the dog to roam at large, unless the dog is being exhibited or trained at a permitted kennel club event, public school or sponsored event.

Section 11-7203. Leashes.

It is a violation of this Article VII for the owner of a dog to confine the dog to the owner's property with a leash made of chewable material or a leash that is of such length that the dog is able to leave the owner's property.

Section 11-7204. Vicious Dogs.

In addition to any remedies provided herein, an enforcement officer may institute a proceeding in Tribal Court for the purpose of having a dog declared vicious. If a dog is found to be vicious after a hearing in Tribal Court, the judge may order that the dog be maintained solely under those circumstances ordered by the judge or that the dog be destroyed in a humane manner.

CHAPTER 3. LICENSING OF DOGS

Section 11-7301. General.

All dogs four months of age and older which will be maintained on the Reservation for thirty (30) consecutive days or more must be licensed within thirty (30) days of entry onto the Reservation in accordance with the terms of this Article VII.

Section 11-7302. Obtaining Licenses.

Licenses will be issued by the Fish and Game Department or at any other place designated by the Fish and Game Department.

Section 11-7303. Licensing Fees.

Licensing fees shall be established by the Fish and Game Department and approved by the Administrative Committee of the Tribes.

Section 11-7304. Dog Tags.

A durable dog tag shall be issued for each dog licensed. The dog tag shall be valid for one calendar year. The dog tag shall contain the number of the license and the date of expiration and shall be worn by the dog at all times. A duplicate dog tag may be issued upon application to the Fish and Game Department by the owner and after payment of a fee as established by the Fish and Game Department.

Section 11-7305. Proof of Vaccination.

No license shall be issued unless the owner presents the Fish and Game Department with a valid vaccination certificate.

Section 11-7306. Transfer of License.

Upon application to the Department, a person that adopts a properly licensed dog may have the license transferred to his or her name.

Section 11-7307. Unlicensed Dog.

A dog found at large without a dog tag identifying its owner shall be presumed to be unowned.

Section 11-7308. Dog Training Permits.

The Fish and Game Department may promulgate regulations, permits and fee schedules for dog trainers preparing for dog shows. No dog training permit shall exceed a period of six months in duration.

CHAPTER 4. NUISANCE

Section 11-7401. Nuisance.

It is a violation of this Article VII for the owner of an animal to permit the animal to cause a nuisance, as that term is defined in this Article VII.

CHAPTER 5. ANIMAL BITES

Section 11-7501. General.

The owner of an animal shall be liable for the damages suffered by any person injured by the animal or for the damages done to the property of another whether the person bitten is in a public place or unlawfully upon private premises, including the property of the owner of the animal.

Section 11-7502. Lawful Presence on Private Property Defined.

A person is lawfully in or on the private property of the owner of an animal within the meaning of this Article VII when they are a licensee or invitee, or when on the property in the performance of a duty imposed upon the person by a law or regulation of the Tribes, the State of Arizona, the State of

California, the United States Government, or by an ordinance of a local government in which the property is located.

Section 11-7503. Dog Bites.

The owner of a dog which bites a person shall be liable for the damages suffered by the person regardless of the former viciousness of the dog or the owner's knowledge of its viciousness.

Section 11-7504. Provocation as Defense.

Proof that the person attacked provoked the attack shall be a defense to an action for damages.

Section 11-7505. Reporting Animal Bites.

All animal bites shall be reported to the Fish and Game Department immediately.

Section 11-7506. Quarantine of Biting Animals.

(a) An unowned animal, whether vaccinated or not, that bites a person or another animal shall be impounded or, upon the request of a medical professional, shall be destroyed in a humane manner by the Fish and Game Department for submission to an appropriate diagnostic laboratory for rabies testing. If impounded, the animal shall be quarantined for not less than ten days. If after ten days the animal is free of rabies the animal may be adopted or disposed of in accordance of this Article VII.

(b) An owned animal, whether vaccinated or not, that bites a person or another animal shall be impounded, or upon the request of a medical professional, shall be destroyed in a humane manner by the Fish and Game Department for submission to an appropriate diagnostic laboratory for rabies testing. Upon the request of the owner the animal may be confined to a veterinary hospital or quarantined at home. No animal shall be permitted to be quarantined at home unless the owner abides by the conditions of the home quarantine as determined by the Fish and Game Department.

(c) If an animal is impounded pursuant to the provisions of Section 11-7506(a) or (b) of this Article VII, the owner shall be responsible for all impoundment fees whether or not the animal is determined to be rabid.

CHAPTER 6. RABIES

Section 11-7601. General.

It is a violation of this Article VII for the owner of a dog to fail to have the dog vaccinated for rabies on an annual basis. Proof of vaccination is a valid rabies vaccination certificate.

Section 11-7602. Rabies Vaccination Certificate.

(a) A valid rabies vaccination certificate must be signed by a licensed veterinarian and contain the following information:

(1) the name and address of the owner

(2) a brief description of the dog

(3) date of vaccination

(5) type, manufacturer and serial number of the vaccination

Section 11-7603. Declaration of Quarantine.

The Fish and Game Department shall declare a rabies quarantine area if rabies is detected on the Reservation or in the surrounding environs. The Fish and Game Department shall notify the appropriate health officials within the Town of Parker, La Paz County and the United States Public Health Service of the rabies quarantine area in a timely manner.

Section 11-7604. Dogs Not Permitted at Large.

It is a violation of this Article VII for the owner of a dog to permit the dog to roam at large in a rabies quarantine area. The owner of a dog shall either confine the dog within an enclosure on the owner's property or securely tie the dog so that it is confined entirely to the owner's property on a leash not to exceed six feet in length.

Section 11-7605. Animals Found at Large in a Quarantine Area.

(a) Dogs found at large in a quarantine area, animals showing clinical signs of rabies, and animals which have bitten any person shall be impounded or, upon the request of the animal's owner, confined at a veterinary hospital or at home. No animal shall be permitted to be quarantined at home unless the owner agrees to abide by the conditions of the home quarantine as determined by the Fish and Game Department. Whether hospitalized or impounded, the animal shall be quarantined for not less than ten days. If after ten days the animal is free of rabies the animal may be reclaimed, adopted or disposed of in accordance with this Article VII.

(b) An animal quarantined pursuant to this Section 11-7605 may be destroyed prior to the termination of the minimum confinement period for laboratory examination for rabies if the animal shows clinical signs of rabies.

(c) If an animal is impounded or destroyed pursuant to the provisions of Section 11-7605(a) or (b) of this Article VII, the owner shall be responsible for all impoundment fees whether or not the animal is determined to be rabid.

CHAPTER 7. IMPOUNDMENT

Section 11-7701. Community Pound.

The Department of Fish and Game may establish and regulate a community pound for the purposes of providing a temporary home for animals waiting adoption, quarantining animals or as is otherwise

necessary to carry out the terms of this Article VII.

Section 11-7702. Cooperation with Neighboring Communities.

The Department of Fish and Game may enter into cooperative agreements with neighboring city or county governments or local veterinarians to operate a community pound.

Section 11-7703. Establishment and Use of Impoundment Fees.

The Department of Fish and Game shall establish reasonable fees to defray the costs of impoundment. Monies collected pursuant to this Section 11-7703 shall be remitted to the Fish and Game Department and shall be used for the operation and maintenance of the Department's animal control program, pursuant to a budget approved by Tribal Council. Any unencumbered balance remaining in the fund at the end of the fiscal year shall be carried over into the following fiscal year.

Section 11-7704. Animals Subject to Impoundment.

(a) The following animals shall be impounded whenever found:

(1) judicially determined vicious dogs;

(2) judicially determined nuisance dogs;

(3) female dogs during her breeding or mating season;

(4) any dog over four months of age not wearing a valid dog tag issued for that particular dog;

(5) any animal in a rabies quarantine area;

(6) any animal that bites a human being so as to cause abrasion of the skin;

(7) any animal that appears to be infected with rabies;

(8) any animal in the care of an individual taken into custody by the Tribal Police Department if it appears that no other person is available to care for the animal; and

(9) any animal in the care of an individual involved in a motor vehicle accident if it appears that the individual is incapable of caring of the animal and no other person is available to care for the animal.

Section 11-7705. Voluntary Impoundment.

(a) The owner of an animal, or a friend or relative of the owner, may arrange for voluntary impoundment of the animal if the owner is unable to care for the animal due to a medical condition. The person bringing the animal to the community pound shall enter into an impoundment agreement stating the

duration of impoundment. Impoundment fees must be paid when the animal is reclaimed. If the animal is not reclaimed within three days after the impoundment agreement terminates, the animal shall become the property of the Tribes and may be made available for adoption.

(b) The owner of an animal may voluntarily impound an unwanted animal, provided all impoundment and vaccination fees are paid.

Section 11-7706. Duration of Impoundment.

Animals impounded pursuant to Section 11-7704 of the Article VII shall be held for a minimum of three days. After the minimum three day period, the animal shall become the property of the Tribes and may be made available for adoption or disposed of in a humane manner.

Section 11-7707. Diseased Animals.

The Department may destroy sick or injured animals that are impounded if destruction is necessary to prevent the animal from suffering or to prevent the spread of disease.

Section 11-7708. Adoption.

Animals available for adoption may be adopted provided all impoundment fees are paid. No animal shall be released from impoundment for the purposes of medical or other types of research.

Section 11-7709. Claiming an Impounded Animal.

Persons reclaiming impounded animals must furnish proof that the animal belongs to that individual and pay all impound fees, regardless of the reason for impoundment.

CHAPTER 8. CRUELTY TO ANIMALS

Section 11-7801. General Provisions.

(a) It is a violation of this Article VII for any person to overwork, torture, torment, cruelly beat or unlawfully kill an animal, or to cause or procure an animal to be overworked, tortured, tormented, cruelly beaten or killed.

(b) It is a violation of this Article VII to transport or cause an animal to be transported in a cruel or inhumane manner.

Section 11-7802. Abandonment.

It is a violation of this Article VII for any person to abandon an animal on a street, road or highway, drains or canals, or in any public place or on private property.

Section 11-7803. Care of Animals.

(a) It is a violation of this Article VII for any person owning an animal to fail to provide the following for that animal:

(1) food that is free from contamination and that is of a sufficient quantity and nutritive value to maintain the animal in good health;

(2) potable water accessible to the animal at all times, whether free-flowing or in a clean receptacle;

(3) convenient access to natural or artificial shelter which adequately protects the animal from extreme temperatures, provides adequate ventilation and is of a size so as to minimize the risk of the animal contracting disease, being injured, or becoming infested with parasites; and

(4) medical treatment for injuries, parasites and disease, sufficient to maintain the animal in good health and minimize suffering.

CHAPTER 9. ENFORCEMENT

Section 11-7901. Enforcement Officers.

(a) The following persons are authorized to issue citations for violations of any provision of this Ordinance:

(1) C.R.I.T. Fish and Game Wardens

(2) C.R.I.T. Police Officers

(b) Enforcement officers shall issue citations based on either:

(1) first hand knowledge that a person has violated this Article VII; or

(2) probable cause, after an investigation has been conducted.

Section 11-7902. Impounding of Neglected and Abused Animals.

Enforcement officers may take control of neglected or abused animals by transporting the animal to the nearest available animal shelter, or to a veterinarian for medical treatment or by euthanizing the animal if necessary to alleviate suffering. All costs incurred by the enforcing authority pursuant to this Section 11-7902 shall be assessed against the owner of the animal.

Section 11-7903. Destruction of Potentially Dangerous Animals.

Enforcement officers may kill an animal at large that poses a specific and immediate danger to human health and safety if, and only if, that animal cannot be safely impounded by the enforcement officers.

Section 11-7904. Entrance onto Private Property.

Enforcement officers may enter onto private property when necessary to do so in order to apprehend a dog that is at large. Such entrance upon private property shall be in reasonable pursuit of the dog and shall not include a right of entry into a domicile or enclosure.

Section 11-7905. Interference with an Enforcement Officer.

It is a violation of this Article VII for any person to interfere with an enforcement officer in the performance of his or her duty while the officer is carrying out the provisions of this Article VII.

CHAPTER 10. COMMENCEMENT OF ACTION

Section 11-71001. Commencement of Action.

A civil case for violation of this Article VII is commenced by issuance of a civil citation.

Section 11-71002. Service.

(a) A citation issued pursuant to this Article VII may be served by delivering a copy of the citation to the person charged with the violation or by any means authorized by the rules of civil procedure for serving a civil complaint.

(b) The original civil citation shall be filed in Tribal Court within ten court days of the time the citation was issued. An enforcement officer may issue a civil citation.

Section 11-71003. Proceedings.

(a) A person served with a civil citation shall:

(1) Appear at the time and place designated by Tribal Court.

(2) Admit or deny the allegations of the citation.

(b) Allegations not denied at the time of appearance are deemed admitted.

(c) If the allegations are admitted, the court shall enter judgement for the Tribes and shall impose a civil fine. The person may admit the allegations with an explanation, and then the court shall enter judgement for the Tribes and impose a civil fine. In determining the civil fine, the court may consider the explanation submitted.

(d) If the allegations are denied, the court shall set the matter for a hearing. The hearing is informal and without a jury. At the hearing, the Tribes are required to prove the violation charged by a preponderance of the evidence. Technical rules of evidence do not apply, except for statutory provisions relating to privileged communications. If the person elects to be represented by counsel the person shall notify the court at least ten days before the hearing date. Hearings may be recorded. If the court finds in favor of

the person, the court shall enter an order dismissing the allegation. If the court finds in favor of the Tribes, the court shall enter judgement for the Tribes and impose a civil fine.

(e) If a person served with a civil citation alleging a violation of this Article VII fails to appear at or before the time directed to appear or at the time set for a hearing by the court, the allegations in the citation are deemed admitted, and the court shall enter judgement for the Tribes and impose a civil fine.

CHAPTER 11. CIVIL PENALTIES

Section 11-71101. Penalties.

(a) In addition to, and notwithstanding any impoundment fees, any person who violates or fails to comply with a provision of this Article VII shall be subject to the following civil fines:

(1) For a first violation, a fine not less than fifty dollars ($50) but not to exceed five hundred dollars ($500).

(2) For subsequent violations committed within one year of a previous violation of a provision of this Article VII, a fine not less than one hundred dollars ($100) but not to exceed one thousand dollars ($1,000).

(3) Once a person has received either a notice of violation or a citation from an enforcement officer for a violation of or a failure to comply with this Article VII, each day that person continues to violate or fails to comply with this Article VII constitutes a separate civil violation of this Article VII.

Section 11-71102. Punitive Damages.

Any person adjudged to have engaged in a pattern or practice of violating this Article VII may be liable for punitive damages in an amount not to exceed one thousand dollars ($1,000). The Court may assess punitive damages pursuant to this Section 11-71102 for each violation of which the pattern or practice is found to consist.

Section 11-71103. Remittance of Fines.

Monies collected pursuant to this Article VII shall be remitted to the Fish and Game Department and shall be used to defray the costs of the administering of this Article VII, pursuant to a budget approved by Tribal Council.

Section 11-71104. Regulations Adopted Pursuant to this Article VII.

The Fish and Game Department is authorized to issue such rules and regulations as are deemed necessary to carry out the provisions of this Article VII, upon obtaining prior approval of the Administrative Committee.

* * *

ARTICLE VIII. DISPOSAL OF SOLID WASTE

[Note: Except as otherwise noted, the provisions of Article VIII of the Health and Safety Code were enacted on May 23, 1997 by Ordinance 97-1, effective on July 1, 1997; amended on August 9, 2002, by Ordinance 02-141 effective August 9, 2002.]

CHAPTER 1. GENERAL PROVISIONS

Section 11-8101. Title.

This Ordinance, as set forth in this Article VIII, shall be known and cited as the "Disposal of Solid Waste Code of the Colorado River Indian Tribes," or the "Solid Waste Code."

Section 11-8102. Purpose; Tribal Council Findings.

(a) This Article is adopted by the Tribal Council of the Colorado River Indian Tribes pursuant to Article VI, §1(v) of the Tribal Constitution. The purpose of this Article is to protect the health and safety and promote the welfare of the people of the Colorado River Indian Tribes and surrounding communities and to protect the environment by establishing minimum standards for the disposal of solid waste.

(b) In adopting this Article, the Tribal Council of the Colorado River Indian Tribes finds that the provisions of this Solid Waste Code are designed to prevent the wide-scale dumping of solid waste and the pollution of its Reservation.

(c) The Tribal Council finds that this Code does not apply to the following activities which are part of the usual operation of a residential household:

(1) the incineration of residential trash, including, but not limited to, household trash, lawn clippings and tree branches; and

(2) the burying of household pets.

Unless specifically excepted, this Solid Waste Code applies to other activities of a residential household as set forth herein.

(d) The Tribal Council finds that the provisions of this Solid Waste Code are not designed to interfere with traditional burial practices.

[As amended, August 9, 2002, by Ord. 02-141.]

Section 11-8103. Definitions.

(a) "Agricultural Waste" means waste resulting from agricultural operations, including but not limited to crop stubble and stem trash. Solid waste generated as a result of office operations, or ordinary household operations conducted incident to an agricultural operation and yard waste such as leaves, grass clippings, garden debris, and smaller chip branches are specifically excluded from this definition. Nor shall

anything in this Article be construed so as to modify or annul any provision in the Tribes' Pesticide Code.

(b) "Approved Site" means sites designated by Tribal Council as acceptable for the collection and/or disposal of solid waste.

(c) "Construction and demolition waste" means waste building materials, packaging, and rubble resulting from construction, remodeling, repair and demolition operations on pavements, houses, commercial buildings and other structures.

(d) "Disposal" means the discharge, abandonment, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

(e) "Disposer" means any person who discharges, abandons, deposits, injects, dumps, spills, leaks, or places or any person who causes to be discharged, abandoned, deposited, injected, dumped, spilled, leaked or placed any solid waste or hazardous waste into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

(f) "Enforcement Officers" means those individuals or departments who are herein authorized by the Tribal Council of the Tribes to enforce this Article.

(g) "Garbage" means all kitchen and table food waste and animal or vegetable waste that attends or results from the storage, preparation, cooking, or handling of food-stuffs as well as ordinary residential household wastepaper and discardable items but does not mean agricultural waste, hazardous waste, industrial waste, infectious waste, or sludge.

(h) "Generator" means any person who generates solid waste or any person who by contract, agreement or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment of solid waste owned or possessed by such person, or by any other person or entity.

(i) "Hazardous waste" means a solid waste, or combination of solid wastes, defined as hazardous by 42 U.S.C. §6903 (5) and 40 C.F.R Part 261.3, as either may be amended from time to time.

(j) "Industrial solid waste" means solid waste generated by industrial processes and manufacturing.

(k) "Infectious Waste" means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes and potentially contaminated laboratory wastes, dialysis wastes and any additional medical items defined as medical wastes by 33 U.S.C. §1402, as it may be amended from time to time, with the exception of medical waste generated at home, including needles used for injections, if, and only if, that waste is disposed of as directed by a medical professional.

(l) "Nuisance" means a condition that occurs as a result of the handling, treatment, or disposal of solid

waste and sludge, which condition is injurious to human health or is indecent or offensive to the senses and interferes with the comfortable enjoyment of life or property.

(m) "Open Burning" means the burning of solid waste under such conditions that the products of combustion are emitted directly into the open atmosphere.

(n) "Open Dump" means any facility or site at which solid waste is disposed of that is not a site approved by the Tribes.

(o) "Person" means an individual, trust, firm, association, Federal, Tribal or State government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

(p) "Recovery" means the recovery of materials or energy from solid waste.

(q) "Reservation" means The Colorado River Indian Reservation as established 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 fee patented and allotted lands used or claimed by any person, without regard to such person's membership in the Colorado River Indian Tribes.

(r) "Residential" means a place of abode, residence, whether temporary or permanent, and includes homes, mobile homes, campers, recreational vehicles and similar places where a person may reside for any length of time.

(s) "Solid Waste" means all solid wastes including any household and residential garbage, trash, rubbish, refuse, and other discarded material and also includes, solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, and agricultural operations (excluding agricultural waste), and from community activities, such as ashes, dead animals, abandoned vehicles, street and parking lot cleanings, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. 1342, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

(t) "Sludge" means any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, septic tank, motor home, recreational vehicle, travel, or camping trailer, or similar source, or air pollution control facility or any other such waste having similar characteristics and effects.

(u) "Storage" means confining, containing or stockpiling of solid waste prior to collection and transport to an approved site.

(v) "Transfer Site" means any of the sites operated by the Tribes specifically for the temporary collection of solid waste prior to transfer to a permanent sanitary landfill.

(w) "Transporter" means any person who transports or causes to be transported any solid waste to any disposal site, including, but not limited to, a transfer station, a disposal or treatment facility.

(x) "Tribes" means the Colorado River Indian Tribes.

(y) "Tribal Council" means the Colorado River Indian Tribes Tribal Council, as empowered and established by Article IV, Section 1 or the Constitution of the Colorado River Indian Tribes.

(z) "Tribal Court" means the Colorado River Indian Tribes' Tribal Court, as empowered and established by Article XII of the Constitution of the Colorado River Indian Tribes.

[As amended, August 9, 2002, by Ord. 02-141.]

Section 11-8104. Responsibility for Storage, Transport And Disposal of Solid Waste.

(a) Except as provided in Article I, Public Utilities Code, any person generating solid waste shall be responsible for the proper storage, transport and disposal of that solid waste, as set forth in this Article. Responsibility includes, but is not limited to, liability for any costs incurred in the clean up of solid waste that is improperly transported or disposed of, as set forth in Chapter 9 of this Article.

(b) Except as provided in Article I, Public Utilities Code, any arranges for the recovery, transport, or disposal of solid waste is responsible for the proper transport and disposal of that solid waste, as set forth in this Article. Responsibility includes, but is not limited to, liability for any costs incurred in the clean up of solid waste that is improperly transported or disposed of, as set forth in Chapter 9 of this Article.

(c) Except as provided in Article I, Public Utilities Code, any person disposing of solid waste shall be responsible for the proper disposal of that solid waste, as set forth in this Article. Responsibility includes, but is not limited to, liability for any costs incurred in the clean up of solid waste that is improperly disposed of, as set forth in Chapter 9 of this Article.

[As amended, August 9, 2002, by Ord. 02-141.]

CHAPTER 2. REQUIREMENTS APPLICABLE TO THE STORAGE OF SOLID WASTE

Section 11-8201. Storage of Solid Waste.

(a) Any person generating solid waste shall store the solid waste in durable containers with close fitting lids. Containers shall be maintained in such a manner so as to prevent the creation of a nuisance or a menace to the public health.

(b) It shall be a violation of this Article for the owner, agent or occupant of land to maintain an open dump on the premises.

(c) Each day that solid waste is stored in violation of this Section 11-8201 shall constitute a separate civil violation of this Article.

CHAPTER 3. REQUIREMENTS APPLICABLE TO THE TRANSPORTATION OF SOLID WASTE

Section 11-8301. Transportation of Solid Waste.

(a) Any person transporting solid waste shall cover, tie or otherwise secure such solid waste so that no waste will be blown or dropped from the transport vehicle.

(b) Each instance, in which solid waste is transported in violation of this Section 11-8301, shall constitute a separate civil violation of this Article. Distinct segments of a single trip shall be deemed a separate instance of transporting.

CHAPTER 4. REQUIREMENTS APPLICABLE TO THE DISPOSAL OF SOLID WASTE

Section 11-8401. Disposal of Solid Waste.

(a) It is a violation of this Article for a person to dump, deposit or dispose of solid waste any place within the exterior boundaries of the Reservation other than at an approved site.

(b) It is a violation of this Article for a person to conduct open burning of any pesticide containers or any other packaging related to pesticides at any time.

(c) It is a violation of this Article for any person to destroy, remove or tamper with any signs posted by the Tribes at an approved site, an open dump or a trash bin.

(d) It is a violation of this Article for any person to improperly dump, deposit or dispose of solid waste in a trash bin that is not intended for the use of that person, if the bin is so posted.

(e) Each instance, in which solid waste is disposed of in violation of this Section 11-8401, shall constitute a separate violation of this Article.

CHAPTER 5. REGULATIONS APPLICABLE TO INFECTIOUS WASTE

Section 11-8501. Disposal of Infectious Waste.

(a) No person shall deposit infectious waste at any transfer station operated by the Tribes.

(b) All infectious waste shall be deposited in red bags ("red-bagged"), and deposited in a permitted sanitary landfill which is designated to receive infectious waste.

(c) Each instance, in which infectious waste is disposed of in violation of this Section 11-8501, shall constitute a separate violation of this Article.

CHAPTER 6. SLUDGE

Section 11-8601. Disposal of Sludge.

(a) All sludge shall be deposited in a sanitary landfill which is designated to receive sludge or in a septic lagoon.

(b) No person shall deposit sludge at any transfer station operated by the Tribes.

(c) Each instance, in which sludge is disposed of in violation of this Section 11-8601, shall constitute a separate violation of this Article.

CHAPTER 7. ENFORCEMENT

Section 11-8701. Enforcement Officers.

(a) The following persons are authorized to issue citations for violations of any provision of this Article:

(1) C.R.I.T. Fish and Game Wardens

(2) C.R.I.T. Police Officers

(3) C.R.I.T. Solid Waste Management Coordinator and his or her delegates

(4) C.R.I.T. Environmental Protection Officer and his or her delegates

(b) Enforcement officers shall issue citations based on either:

(1) probable cause that a person has violated this Article; or

(2) the presence of three or more items in the solid waste which identify the same person as presumably responsible for the storage, transport or disposal of the solid waste, as presumption of ownership is defined in Section 11-8702 of this Article; or

(3) for abandoned vehicles, the registered owner of the vehicle as determined by the Vehicle Identification Number will be held presumably responsible for the abandoned vehicle.

Section 11-8702. Presumption of Ownership.

When solid waste is dumped or deposited in violation of this Article and three or more items in the solid waste identify the same person as the owner or recipient of the waste, there shall be a rebuttable presumption that person is responsible for the unlawful dumping of the solid waste. If three or more items in the solid waste identify other parties as the owner or recipient of the waste, then each party so identified shall be held jointly and severally liable for violating this Article.

Section 11-8703. Civil Actions.

An enforcement officer is authorized to commence a civil action for any appropriate relief for a violation of this Code, including, but not limited to, a permanent or temporary injunction.

Section 11-8704. Commencement of Action.

A civil case for violation of this Article is commenced by issuance of a civil citation.

Section 11-8705. Service.

(a) A citation issued pursuant to this Article may be served by delivering a copy of the citation to the person charged with the violation or by any means authorized by the rules of civil procedure for serving a civil complaint.

(b) The original civil citation shall be filed in Tribal Court within ten court days of the time the citation was issued. A police officer may issue a civil citation.

Section 11-8706. Proceedings.

(a) A person served with a civil citation shall:

(1) Appear at the time and place designated by Tribal Court.

(2) Admit or deny the allegations of the citation.

(b) Allegations not denied at the time of appearance are deemed admitted.

(c) If the allegations are admitted, the court shall enter judgement for the Tribes and shall impose a civil fine. The person may admit the allegations with an explanation, and then the court shall enter judgement for the Tribes and impose a civil fine. In determining the civil fine, the court may consider the explanation submitted.

(d) If the allegations are denied, the court shall set the matter for a hearing. The hearing is informal and without a jury. At the hearing, the Tribes are required to prove the violation charged by a preponderance of the evidence. Technical rules of evidence do not apply, except for statutory provisions relating to privileged communications. If the person elects to be represented by counsel the person shall notify the court at least ten days before the hearing date. Hearings may be recorded. If the court finds in favor of the person, the court shall enter an order dismissing the allegation. If the court finds in favor of the Tribes, the court shall enter judgement for the Tribes and impose a civil fine.

(e) If a person served with a civil citation alleging a violation of this Article fails to appear at or before the time directed to appear or at the time set for a hearing by the court, the allegations in the citation are deemed admitted, and the court shall enter judgement for the Tribes and impose a civil fine.

CHAPTER 8. CIVIL PENALTIES

Section 11-8801. GENERAL.

(a) In addition to and notwithstanding any costs assessed pursuant to Chapter 9 of this Article, any person who violates or fails to comply with any provision of this Article shall be subject to the following civil fines:

(1) For a first violation, a fine not less than one hundred dollars ($100) but not to exceed one thousand dollars ($1,000).

(2) Subsequent Violations:

(A) Except as provided for in Subsection (2)(b) of this Section, for subsequent violations committed within one year of a previous violation of any provision of this Article, a fine not less than five hundred dollars ($500) but not to exceed one thousand five hundred dollars ($1,500). Separate violations determined pursuant to the provisions of Section 11-8201(c) and 11-8301(b) of this Article shall not constitute subsequent violations as set forth in this Section 11-8801(a)(2).

_____ (B) If a subsequent violation involves construction and demolition waste or industrial solid waste and the subsequent violation is committed within two years of a previous violation of any provision of this Article, regardless of the type of solid waste involved in the first incident, a fine not less than one thousand dollars ($1,000) but not to exceed two thousand five hundred dollars ($2,500). Separate violations determined pursuant to the provisions of Section 11-8201(c) and 11-8301(b) of this Article shall not constitute subsequent violations as set forth in this Section 1-8901(b)(2).

Section 11-8802. Punitive Damages.

Any person adjudged to have engaged in a pattern or practice of violating this Article may be liable for punitive damages in an amount not to exceed one thousand dollars ($1,000). The Court may assess punitive damages pursuant to this Section 11-8802 for each violation of which the pattern or practice is found to consist.

Section 11-8803. Remittance of Fines.

Court judgements and monies collected pursuant to this Section shall be remitted to the Colorado River Indian Tribes and shall be used to defray the costs of the Tribes' Solid Waste Management Program.

CHAPTER 9. SUBSEQUENT DISPOSAL OF IMPROPERLY HANDLED WASTE

Section 11-8901. Court Ordered Clean up.

The Court may order any person adjudged to have stored, transported, disposed of or otherwise handled waste in violation of this Article to properly clean-up, or cause to be properly cleaned-up, any site contaminated or otherwise affected by such violation.

Section 11-8902. Reimbursement of Tribes.

If a person violates or fails to comply with this Article and the Tribes arrange for or execute the lawful disposal of the solid waste, that person shall be responsible to the Tribes for all reasonable costs and expenses associated with the transportation and proper disposal of the solid waste.

Section 11-8903. Reimbursement of Individual.

If a person violates or fails to comply with this Article and another individual, as either the owner or the lessee of the land upon which the waste is discovered, arranges for or executes the lawful disposal of the solid waste, the person who disposed of solid waste in violation of this Article shall be responsible to the individual who properly disposed of the solid waste for all reasonable costs and expenses associated with the transportation and proper disposal of the solid waste.

Section 11-8904. Attorney's Fees.

If the Tribes or a property owner files suit to collect their reasonable costs and expenses for disposal of solid waste as provided for in Chapter 9 of this Article, the court may award a reasonable amount as attorney's fees to the prevailing party.

Section 11-8905. Generator's Responsibility For Failure of Transporter or Disposer to Comply With This Article.

If a transporter or disposer of solid waste violates or fails to comply with this Article, the generator of the solid waste shall be held responsible for the recovery of disposal costs as provided for in Sections 11-8901, 11-8902 and 11-8903 of this Article.

Section 11-8906. Transporter's Responsibility For Failure of Disposer to Comply With This Article.

If a disposer of solid waste violates or fails to comply with this Article, the transporter of the solid waste may be held responsible for the recovery of disposal costs as provided in Sections 11-8901, 11-8902 and 11-8903 of this Article.

CHAPTER 10. FAILURE TO PAY FINES

Section 11-81001. Civil Fines.

(a) A person shall pay all civil fines within thirty (30) days from entry of judgement.

(b) If payment within thirty (30) days will place an undue economic burden on a person, the court may extend the time for payment or may provide for installment payments. Upon failure to make installment payments in a timely manner, the balance on the judgement shall become immediately due and payable.

(c) Any person who fails to pay an assessment of a civil penalty in a timely manner, whether pursuant to Subsection (a) or (b) of this Section, shall be required to pay, in addition to such amount, interest in the amount of eighteen percent from the date of the final order or the date of the final judgement, attorney's fees and costs of collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure persists. Such nonpayment penalty shall be in an amount equal to twenty percent (20%) of the aggregate amount of the penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.

CHAPTER 11. SEIZURE AND IMPOUNDMENT OF VEHICLES AND EQUIPMENT

Section 11-81101. Seized and Impounded Vehicles and Equipment.

(a) Vehicles and equipment used to commit acts which violate any provision of this Article are subject to confiscation and impoundment pending appearance of the owner or operator in Tribal Court to answer a complaint or citation. Upon appearing in Tribal Court, the seized items shall be returned to the defendant.

(b) The owner or operator of a vehicle seized and impounded pursuant to this Article shall be held responsible for all costs associated with such seizure and impoundment.

CHAPTER 12. SEVERABILITY CLAUSE

Section 11-81201. Severability.

If any section, subsection, sentence, clause or phrase of this Article is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of this Article.

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