



Chapter 40

Communicable Disease Code

Pueblo of Isleta

AS AMENDED SEPTEMBER 24, 2020

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1 **Emergency Communicable Disease Code enacted pursuant to Pueblo of Isleta Council**
2 **Resolution No. 2020-016**

3
4 **ARTICLE 40.0 SHORT TITLE**

5
6 This Chapter shall be known as the Pueblo of Isleta Communicable Disease Code
7 (hereinafter referred to in this Chapter as this "Code") and shall be cited to as P.O.I.
8 Code, Chapter 40.

9
10 **ARTICLE 40.1 INTENT**

11
12 It is the intent of the Pueblo of Isleta to protect and promote the health of our elders, our
13 children, and all community members to the greatest extent possible through the Pueblo's
14 public health capabilities while respecting individual rights to dignity, health information
15 privacy, due process, and other legally-protected interests. This Code is not intended to
16 supersede any customary powers or authorities of the Governor and the enforcement
17 thereof, and shall not be interpreted as such.

18
19 **ARTICLE 40.2 PURPOSE**

20
21 The purpose of this Code is to:

- 22
- 23 a) Strengthen tribal sovereignty by exercising the Pueblo's inherent power to prevent
 - 24 and control communicable disease;
 - 25
 - 26 b) Protect the Pueblo from any unwanted and illegal encroachment of state and local
 - 27 jurisdiction and/or authority on tribal land;
 - 28
 - 29 c) Respond to potential public health emergencies through formal declarations and
 - 30 triggering of special public health powers during an emergency;
 - 31
 - 32 d) Establish procedures for protecting due process; and
 - 33
 - 34 e) Provide fair and appropriate criminal penalties for violations of the provisions of this
 - 35 Code, as well as declare immunities of specific actors where justified.
 - 36

37 **ARTICLE 40.3 DEFINITIONS**

- 38
- 39 a) "Case" means a person, alive or dead, having been diagnosed to have a particular
 - 40 disease or condition by a health care provider with a diagnosis based on clinical or
 - 41 laboratory criteria or both.
 - 42
 - 43 b) "Child day care facility" means a department or agency regularly providing care for a
 - 44 group of children for less than twenty-four hours a day and subject to tribal or federal
 - 45 regulation.



- 1 c) "Communicable disease" means an illness caused by an infectious agent which can be
2 transmitted from one person, animal, or object to another person by direct or indirect
3 means including transmission via an intermediate host or vector, food, water, or air.
4
- 5 d) "Contact" means a person exposed to an infected person, animal, or contaminated
6 environment that may lead to infection.
7
- 8 e) "Contaminated" or "contamination" means containing or having contact with
9 infectious agents or chemical or radiological materials that pose an immediate threat
10 to present or future public health.
11
- 12 f) "Contamination control measures" means the management of persons, animals,
13 goods, and facilities that are contaminated, or suspected to be contaminated, in a
14 manner to avoid human exposure to the contaminant, prevent the contaminant from
15 spreading, and/or effect decontamination.
16
- 17 g) "Detention" or "detainment" means physical restriction of activities of an individual
18 by confinement for the purpose of controlling or preventing a serious and imminent
19 threat to public health and may include physical plant, facilities, equipment, and/or
20 personnel to physically restrict activities of the individual to accomplish such
21 purposes.
22
- 23 h) "Disease of suspected bioterrorism origin" means a disease caused by viruses,
24 bacteria, fungi, or toxins from living organisms that are used by man to intentionally
25 produce death or disease in humans, animals, or plants. Many of these diseases may
26 have nonspecific presenting symptoms.
27
- 28 i) "Disease control measures" means the management of persons, animals, goods, and
29 facilities that are infected with, suspected to be infected with, exposed to, or
30 suspected to be exposed to an infectious agent in a manner to prevent transmission of
31 the infectious agent to humans.
32
- 33 j) "Food Establishment" means any food related activity by any person or business with
34 the object of gain, benefit or advantage, either direct or indirect, such as conducting a
35 trade or commercial activity.
36
- 37 k) "Health care provider" means any person having direct or supervisory responsibility
38 for the delivery of health care who is licensed or certified in New Mexico or another
39 state.
40
- 41 l) "Health care facility" means any building that is used, operated, or designed to
42 provide health services, medical treatment, behavioral health services, dental services,
43 nursing, rehabilitative, or preventive care to any individual.
44
- 45 m) "Infectious agent" means an organism such as a virus, rickettsia, bacteria, fungus,



1 protozoan, or helminth that is capable of producing infection or infectious disease.

- 2
- 3 n) "Isolation" means the physical separation for possible medical care of persons who
- 4 are infected or who are reasonably believed to be infected with a threatening
- 5 communicable disease or potential threatening communicable disease from non-
- 6 isolated persons, to protect against the transmission of the threatening communicable
- 7 disease to non-isolated persons.
- 8
- 9 o) "Local health department" means a tribal, city, town, county, or district agency in
- 10 New Mexico providing public health services to persons within their area.
- 11
- 12 p) "Outbreak" means the occurrence of cases of a disease or condition in any area within
- 13 the exterior boundaries of the Pueblo over a given period of time in excess of the
- 14 expected number of cases.
- 15
- 16 q) "Public health emergency" means an occurrence or imminent threat of an illness or
- 17 health condition that:
- 18
- 19 i. is believed to be caused by any of the following:
- 20 A. bioterrorism;
- 21 B. the appearance of a novel or previously controlled or eradicated
- 22 infectious agent or biological toxin; or
- 23 C. natural disaster, chemical attack or accidental release, or nuclear attack
- 24 or accident; and
- 25
- 26 ii. poses a high probability of any of the following harms:
- 27 A. a large number of deaths in the affected population;
- 28 B. a large number of serious or long-term disabilities in the affected
- 29 population;
- 30 C. widespread exposure to an infectious or toxic agent that poses a
- 31 significant risk of substantial future harm to a large number of people
- 32 in the affected population; or
- 33 D. otherwise exceeding the capability or capacity of the public health
- 34 and/or healthcare systems.
- 35
- 36 r) "Quarantine" means the limitation of freedom of movement of such well persons or
- 37 domestic animals as have been exposed to, or are suspected to have been exposed to,
- 38 an infectious agent, for a period of time not longer than the longest usual incubation
- 39 period of the infectious agent, in such manner as to prevent effective contact with
- 40 those not so exposed, as determined by the Tribal Health Officer.
- 41
- 42 s) "State health officer" means the person designated by the secretary of the New
- 43 Mexico Department of Health to serve as statewide health officer, or, in the absence
- 44 of such designation, the person having primary responsibility for public health
- 45 matters within the State of New Mexico.



- 1 t) "Suspected case" or "suspected to be infected" means an individual the Tribal Health
2 Officer, in their professional judgment, reasonably believes that infection with a
3 particular infectious agent is likely based on signs and symptoms, laboratory
4 evidence, or contact with an infected individual, animal, or contaminated
5 environment.
6
7 u) "Tribal Health Officer" means the individual having been appointed under this Code
8 as the health officer for the Pueblo of Isleta. Such individual shall have a Masters or
9 higher degree in Public Health and/or possess a medical license.
10
11 v) "Tribal School" means a facility for programs of education preschool and
12 kindergarten through sixth grade within the tribal reservation.
13

14 **ARTICLE 40.4 GENERAL AUTHORITY AND JURISDICTION**

15
16 The following laws are adopted under the authority of Article 5, Section 2(e) of the
17 Pueblo of Isleta Tribal Constitution which provides that the Tribal Council is empowered
18 to protect the peace, safety, property, health and general welfare of the members of the
19 Pueblo of Isleta.
20

21 **ARTICLE 40.5 PUBLIC HEALTH POWERS**

22 **§ 40.5.1 Responsibilities and Duties of the Governor**

23
24 In addition to customary authorities, and other duties provided in the Pueblo of Isleta
25 Tribal Constitution, the Governor is further authorized to use the powers and procedures
26 set forth under this Code to prevent the spread of disease and protect the health and safety
27 of Pueblo of Isleta community members.
28
29

30 **§ 40.5.2 Responsibilities and Duties of Tribal Health Officer**

- 31
32 a) The Tribal Health Officer is authorized to use the powers and procedures set forth
33 under this Code to prevent the spread of disease and protect the health and safety of
34 Pueblo of Isleta community members.
35
36 b) The Tribal Health Officer shall notify Pueblo health care providers of their
37 requirements under this Code.
38
39 c) The Tribal Health Officer shall, when necessary, conduct and/or delegate and direct
40 investigations and institute disease control and contamination control measures,
41 including medical examination, testing, counseling, treatment, vaccination,
42 decontamination of persons or animals, isolation, quarantine, vector control,
43 condemnation of food supplies, and inspection and closure of facilities, consistent
44 with those indicated in the Control of Communicable Diseases Manual, 20th edition
45 or latest edition, published by the American Public Health Association, or other



1 measures the Tribal Health Officer deems necessary based on their professional
2 judgment, current standards of practice and the best available medical and scientific
3 information.

- 4
- 5 d) The Tribal Health Officer, with Governor and Tribal Council approval, may seek
6 agreements as necessary with local governments, federal authorities, tribal
7 organizations, private entities, state agencies, or institutions of higher education to
8 coordinate or provide public health activities provided in this plan. The Tribal Health
9 Officer shall establish, in consultation with the Governor and Tribal Council, rules,
10 plans, policies, and procedures instituting disease control, contamination control
11 measures and other emergency measures necessary to prevent the spread of
12 communicable disease or contamination for Pueblo health care providers, health
13 facilities, emergency management personnel, tribal law enforcement, and any other
14 entity they deem necessary.

15

16 **§ 40.5.3 Responsibilities and Duties – Health Care Providers and Health Care**
17 **Facilities**

18

19 Every health care provider, as defined in this Code, shall:

- 20
- 21 a) Provide adequate, understandable instruction in control measures designed to prevent
22 the spread of disease to:
- 23
- 24 i. Each patient or client under their care with a communicable disease; and
25 ii. Others, as appropriate, to prevent spread of disease.
- 26
- 27 b) Cooperate with Tribal Health Officer and/or their designees during investigation of:
- 28
- 29 i. Circumstances of a case or suspected case of a notifiable condition or other
30 communicable disease; and
31 ii. An outbreak or suspected outbreak of illness.
- 32
- 33 c) Comply with requirements in this Code, including but not limited to, communicable
34 disease screening and control.
- 35
- 36 d) Use protocols established in the Control of Communicable Diseases Manual, 20th
37 edition, published by the American Public Health Association, when treating wounds
38 caused by animal bites.
- 39
- 40 e) Establish protocols restricting work of employees, staff, students, and volunteers
41 diagnosed to have a communicable disease from having direct contact with patients,
42 clients, residents, and recipients of care during the period of communicability when:
- 43
- 44 i. Transmission of the disease to recipients of care or other employees can occur
45 in that particular job environment, and



1 ii. The disease can cause serious illness.

2
3 f) Permit employees, staff, students, and volunteers to return to work when measures
4 have been taken to prevent transmission of disease, if measures are consistent with
5 recommendations of Tribal Health Officer.

6
7 **40.6 NOTIFIABLE CONDITIONS**

8
9 **§ 40.6.1 Purpose of Notifiable Conditions Reporting**

10
11 The purpose of notifiable conditions reporting is to provide the information necessary for
12 the Pueblo of Isleta, state and local jurisdictions to protect the community’s health by
13 tracking communicable diseases and other conditions.

14
15 **§ 40.6.2 Notifiable Conditions List**

16
17 The Tribal Health Officer shall establish a list of reportable diseases or other conditions
18 of public health importance. The list may include diseases or conditions of humans or
19 animals caused by exposure to toxic substances, microorganisms, or any other pathogens.
20 The Tribal Health Officer may rely upon the New Mexico Department of Health official
21 list of notifiable conditions in meeting this requirement.

22
23 **§ 40.6.3 Information Sharing**

24
25 a) The Tribal Health Officer is authorized to report to public health authorities,
26 including the local health department, New Mexico Department of Health, and/or the
27 Indian Health Service, any information concerning a reportable disease or condition,
28 an unusual cluster, or a suspicious event that they reasonably believe has the potential
29 to be caused by or is an indicator of bioterrorism. These may include the following:

- 30
31 i. A single diagnosed or strongly suspected case of disease caused by an
32 uncommon agent or a potential agent of bioterrorism occurring in a patient
33 with no known risk factors;
34
35 ii. A cluster of patients presenting with a similar syndrome that includes unusual
36 disease characteristics or unusually high morbidity or mortality without
37 obvious etiology; or
38
39 iii. Unexplained increase in a common syndrome above seasonally expected
40 levels.

41
42 b) Sharing of Pueblo information on reportable conditions, unusual clusters, or
43 suspicious events with public health authorities shall be restricted to the information
44 necessary for the treatment, control, investigation, and prevention of a public health
45 emergency.



1 **§ 40.6.4 Persons Required to Report**

2
3 Any person (including health care providers, pharmacists, laboratories, coroners, medical
4 examiners, and veterinarians) who is required by the Tribal Health Officer to report a
5 disease or other condition of public health importance to the Tribal Health Officer shall
6 provide all known or suspected cases of individuals having a reportable disease or
7 condition. Any other person who knows or suspects a case of a reportable disease or
8 condition may provide available information concerning the case to the Tribal Health
9 Officer especially where the case has not been previously reported as required by the
10 Tribal Health Officer.

11
12 **§ 40.6.5 Responsibilities of the Health Care Provider or Health Care Facility**

13
14 a) Health care providers and health care facilities shall:

15
16 i. Notify the Tribal Health Officer regarding:

17
18 A. Cases or suspected cases of notifiable conditions listed by the Tribal
19 Health Officer or the New Mexico Department of Health;

20
21 B. Outbreaks or suspected outbreaks of disease that occur or are treated in
22 the health care facility including, but not limited to, suspected or
23 confirmed outbreaks of varicella, influenza, viral meningitis, health
24 care-associated infection suspected due to contaminated products or
25 devices, or environmentally related disease; and

26
27 C. Known barriers which might impede or prevent compliance with
28 orders for infection control or quarantine.

29
30 ii. Immediately upon becoming aware of a clinically possible case of a condition
31 designated as “immediately notifiable” by the New Mexico Department of
32 Health, notify the Tribal Health Officer in person or by phone. This applies
33 twenty-four hours a day, seven days a week. If the health care provider or
34 facility is unable to contact the Tribal Health Officer, they shall contact the
35 local health jurisdiction or the New Mexico Department of Health who both
36 maintain an after-hours emergency phone contact for this purpose. A party
37 sending a report by secure facsimile copy or secure electronic transmission
38 during normal business hours must confirm immediate receipt by a live
39 person.

40
41 iii. Cooperate with the Tribal Health Officer during investigation of:

42
43 A. Circumstances of a case or suspected case of a notifiable condition or
44 other communicable disease; and



1 B. An outbreak or suspected outbreak of disease.

2
3 iv. Provide adequate and understandable instruction in disease control measures
4 to each patient who has been diagnosed with a case of a communicable
5 disease, and to other persons who may have been exposed to the
6 communicable disease.
7

8 **§ 40.6.6 Handling of Case Reports and Medical Information**
9

- 10 a) All records and specimens containing or accompanied by patient identifying
11 information are confidential.
12
13 b) Health care providers and facilities shall establish and implement policies and
14 procedures to maintain confidentiality related to a patient's medical information.
15
16 c) Personnel in health care facilities who know of a person with a notifiable condition,
17 other than a sexually transmitted disease, shall release identifying information only to
18 other individuals responsible for protecting the health and well-being of the public
19 through control of disease.
20
21 d) Personnel in health care facilities who know of a person with a notifiable sexually
22 transmitted disease shall release identifying information only to the Tribal Health
23 Officer. The Tribal Health Officer may follow New Mexico Department of Health
24 guidance on reporting and follow-up, as appropriate.
25
26 e) Personnel responsible for health care facility management are authorized to permit
27 access to medical information as necessary to fulfill professional duties. Health care
28 facility administrators shall advise those persons permitted access under this Article
29 40.6 of the requirement to maintain confidentiality of such information as defined
30 under this Article 40.6. Professional duties mean the following activities or activities
31 that are functionally similar:
32
33 i. Medical record or chart audits;
34 ii. Peer reviews;
35 iii. Quality assurance;
36 iv. Utilization review purposes;
37 v. Research as authorized under federal law;
38 vi. Risk management; and
39 vii. Reviews required under federal law or regulations.
40
41 f) Personnel responsible for health care facility management are authorized to permit
42 access to a patient's medical information and medical record by medical staff or
43 health care facility staff to carry out duties required for care and treatment of a patient
44 and the management of medical information and the patient's medical record.
45



1 **§ 40.6.7 Responsibilities of Food Service Establishments**

2
3 The person in charge of a food service establishment shall:

- 4
5 a) Notify the Tribal Health Officer of potential foodborne disease.
6
7 b) Cooperate with the Tribal Health Officer or their designee in the investigation of
8 cases, suspected cases, outbreaks, and suspected outbreaks of foodborne or
9 waterborne disease. This includes the release of the name and other pertinent
10 information about food handlers diagnosed with a communicable disease as it relates
11 to a foodborne or waterborne disease investigation.
12
13 c) Not release information about food handlers with a communicable disease to other
14 employees or the general public.
15
16 d) Comply with all disease control, contamination control, and other emergency control
17 measures.
18

19 **§ 40.6.8 Responsibilities of Schools and Child Day Care Facilities**

20
21 The person(s) in charge of schools and child day care facilities shall:

- 22
23 a) Notify the Tribal Health Officer of cases, suspected cases, outbreaks, and suspected
24 outbreaks of notifiable conditions that may be associated with the child day care
25 facility.
26
27 b) Consult with the Tribal Health Officer about the control and prevention of infectious
28 disease or communicable disease.
29
30 c) Comply with all disease control, contamination control, and other emergency control
31 measures.
32
33 d) Cooperate with the Tribal Health Officer in the investigation of cases, suspected
34 cases, outbreaks, and suspected outbreaks of disease that may be associated with the
35 child day care facility.
36
37 e) Release identifying information only to other individuals responsible for protecting
38 the health and well-being of the public through control of disease.
39
40 f) Establish and implement policies and procedures to maintain confidentiality related to
41 medical information in their possession.
42
43
44
45



1 **§ 40.6.9 Responsibilities of Community Members**

2
3 Community members shall:

- 4
- 5 a) Cooperate with the Tribal Health Officer or their designee in the investigation of
 - 6 cases, suspected cases, outbreaks, and suspected outbreaks of notifiable conditions or
 - 7 other communicable disease.
 - 8
 - 9 b) Comply with all infection control measures, contamination control measures, other
 - 10 emergency control measures, and isolation and quarantine measures.
 - 11
 - 12 c) Notify the Tribal Health Officer of any case, suspected case, outbreak, or potential
 - 13 outbreak of communicable disease.
 - 14

15 **§ 40.6.10 Duties of the Tribal Health Officer**

16
17 a) The Tribal Health Officer shall:

18
19 i. Review and determine appropriate action for:

- 20
- 21 A. Each reported case or suspected case of a notifiable condition;
 - 22 B. Any disease or condition considered a threat to public health; and
 - 23 C. Each reported outbreak or suspected outbreak of disease, requesting
 - 24 assistance from local, state, and federal agencies in carrying out
 - 25 investigations when necessary.
 - 26
 - 27
 - 28

29 ii. Establish a system for maintaining confidentiality of written records and

30 written and verbal notifiable conditions case reports; and

31 iii. Notify health care providers, laboratories, and health care facilities within the

32 Pueblo.

33

34

35 b) The Tribal Health Officer may adopt alternative arrangements for meeting the

36 reporting requirements under this Code through coordination with local, state, and

37 federal partners.

38

39 c) The Tribal Health Officer has the authority to:

40

41 i. Carry out additional steps determined to be necessary to verify a diagnosis

42 reported by a health care provider;

43

44 ii. Require any person suspected of having a notifiable condition to submit to

45 examinations required to determine the presence of the condition;



- iii. Require any person to submit to examinations required to determine the presence of blood borne pathogens or pathogens transmitted by other bodily fluids, if another person has been exposed to their blood or other bodily fluids;
- iv. Require testing or medical examination of any individual who has or may have been exposed to a communicable disease that poses a significant risk to public health;
- v. Investigate any case or suspected case of a reportable disease or condition or other illness, communicable or otherwise, if deemed necessary;
- vi. Require the notification of additional conditions of public health importance occurring within the tribe's jurisdiction;
- vii. Issue public health orders as deemed necessary by the Tribal Health Officer;
- viii. Conduct investigations and institute control measures; and
- ix. Coordinate with and report to local, state, or federal agencies or tribal organizations providing epidemiological services regarding any notifiable conditions.

§ 40.6.11 Handling of Case Reports and Medical Information

- a) The Tribal Health Officer shall establish and maintain confidentiality procedures related to employee handling of all reports of cases and suspected cases, prohibiting disclosure of reported information identifying an individual case or suspected cases except:
 - i. To employees of the tribal health clinic, another local health department or state health department, federal agencies or other agency partners needing to know for the purpose of administering the requirements under this Code; and
 - ii. To health care providers, specific designees of health care facilities, laboratory directors, and others for the purpose of collecting additional information about a case or suspected case as required for disease prevention and control.
- b) The Tribal Health Officer shall require and maintain signed confidentiality agreements with all tribal health clinic employees with access to identifying information related to a case or suspected case of a person diagnosed with a notifiable condition. The agreements will be renewed at least annually and will include reference to administrative actions that may be taken by the Tribal Health Officer, up to and including, termination from employment.
- c) The Tribal Health Officer may release statistical summaries and epidemiological



1 studies based on individual case reports if no individual is identified or identifiable.

2
3 **ARTICLE 40.7 ISOLATION AND QUARANTINE**

4
5 **§ 40.7.1 Conditions and Principles for Voluntary and Involuntary Isolation or**
6 **Quarantine**

7
8 The Tribal Health Officer shall adhere to the following conditions and principles when
9 isolating or quarantining a person or group of persons under this Article:

- 10
11 a) Isolation or quarantine must be by the least restrictive means necessary to prevent the
12 spread of a communicable or possibly communicable disease to others and may
13 include, but are not limited to, confinement to private homes or other public or private
14 premises;
- 15
16 b) Isolated individuals must be confined separately from quarantined individuals; The
17 health status of isolated or quarantined individuals must be monitored regularly, to
18 determine if they require continued isolation or quarantine;
- 19
20 c) If a quarantined individual subsequently becomes infected or is reasonably believed
21 to have become infected with a communicable or possibly communicable disease that
22 the Tribal Health Officer believes poses a significant threat to the health and safety of
23 other quarantined individuals, they must promptly be placed in isolation;
- 24
25 d) Isolated or quarantined individuals must be released as soon as practicable when the
26 Tribal Health Officer determines that they have been successfully decontaminated or
27 that they pose no substantial risk of transmitting a communicable or possibly
28 communicable disease that would constitute a serious or imminent threat to the health
29 and safety of others;
- 30
31 e) The needs of a person isolated or quarantined must be addressed to the greatest extent
32 possible in a systematic and competent fashion, including, but not limited to,
33 providing adequate food, clothing, shelter, means of communication with those in
34 isolation or quarantine and outside these settings, medication, competent medical
35 care, and mental health care;
- 36
37 f) Premises used for isolation or quarantine must be maintained in a safe and hygienic
38 manner, to minimize the likelihood of further transmission of infection or other harm
39 to persons isolated and quarantined;
- 40
41 g) To the extent possible, cultural and religious beliefs should be considered in
42 addressing the needs of individuals, and establishing and maintaining isolation or
43 quarantine premises;
- 44
45



- 1 h) Isolation or quarantine shall not abridge the right of any person to rely exclusively on
2 spiritual means alone through prayer to treat a communicable or possibly
3 communicable disease in accordance with religious tenets and practices, nor shall
4 anything in this Title be deemed to prohibit a person so relying on spiritual means
5 who is infected with a contagious or communicable disease from being isolated or
6 quarantined in a private place of their own choice, provided, it is approved by the
7 Tribal Health Officer, and all laws, rules and regulations governing control,
8 sanitation, isolation and quarantine are complied with. At their sole discretion, the
9 Tribal Health Officer may isolate infected individuals declining treatment for the
10 duration of their communicable infection, if necessary to protect the health and safety
11 of the individual or others; and
12
- 13 i) Forms must be provided to the individual, to the extent feasible, to document the
14 individual's consent or objection to isolation or quarantine.
15

16 **§ 40.7.2 Voluntary Isolation or Quarantine**
17

- 18 a) Voluntary Isolation or Quarantine should always be used as a first option UNLESS
19 the Tribal Health Officer has determined in their professional judgment that:
20
- 21 i. Seeking voluntary compliance would create a risk of serious harm;
 - 22
 - 23 ii. There is reason to believe that the person or group of persons is, or is
24 suspected to be, infected with, exposed to, or contaminated with a
25 communicable disease or chemical, biological, or radiological agent that could
26 spread to or contaminate others if remedial action is not taken; and
27
 - 28 iii. There is reason to believe that the person or group of persons would pose a
29 serious and imminent risk to the health and safety of others if not detained for
30 purposes of isolation or quarantine.
31
- 32 b) The Tribal Health Officer when conducting voluntary isolation or quarantine will
33 make reasonable efforts to comply with Section 40.7.1, Conditions and Principles of
34 Involuntary or Voluntary Isolation or Quarantine.
35

36 **§ 40.7.3 Involuntary Isolation or Quarantine**
37

- 38 a) If the Tribal Health Officer makes a finding that a delay in isolation or quarantining a
39 person will significantly jeopardize the Tribal Health Officer's ability to prevent or
40 limit the transmission of threatening communicable disease, then the Tribal Health
41 Officer may issue an order to isolate or quarantine a person without first obtaining a
42 court order, as follows:
43
- 44 i. At their sole discretion, a Tribal Health Officer may issue an emergency
45 detention order causing a person or group of persons to be immediately



1 detained for purposes of isolation or quarantine if they:
2

- 3 A. Have first made reasonable efforts, which shall be documented, to
4 obtain voluntary compliance with requests for medical examination,
5 testing, treatment, counseling, vaccination, decontamination of persons
6 or animals, isolation, quarantine, and inspection and closure of
7 facilities, or has determined in their professional judgment that seeking
8 voluntary compliance would create a risk of serious harm;
9
- 10 B. Have reason to believe that the person or group of persons is, or is
11 suspected to be, infected with, exposed to, or contaminated with a
12 communicable disease or chemical, biological, or radiological agent
13 that could spread to or contaminate others if remedial action is not
14 taken; and
15
- 16 C. Have reason to believe that the person or group of persons would pose
17 a serious and imminent risk to the health and safety of others if not
18 detained for purposes of isolation or quarantine.
19

20 ii. If a Tribal Health Officer orders the immediate involuntary detention of a
21 person or group of persons for purposes of isolation or quarantine:
22

- 23 A. The emergency detention order shall be for a period not to exceed five
24 days without a court hearing to determine whether isolation or
25 quarantine should continue.
26
- 27 B. The Tribal Health Officer shall issue a written emergency detention
28 order as soon as reasonably possible, and in all cases within twelve
29 hours of detention, that shall specify the following:
30
- 31 1. The identity of all persons or groups subject to isolation or
32 quarantine;
 - 33 2. The premises subject to isolation or quarantine;
 - 34 3. The date and time at which isolation or quarantine commences;
 - 35 4. The suspected communicable disease or infectious agent if
36 known;
 - 37 5. The measures taken by the Tribal Health Officer to seek
38 voluntary compliance or the basis on which the Tribal Health
39 Officer determined that seeking voluntary compliance would
40 create a risk of serious harm; and
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6. The medical basis on which isolation or quarantine is justified.

iii. The Tribal Health Officer shall provide copies of the written emergency detention order to the person or group of persons detained or, if the order applies to a group and it is impractical to provide individual copies, post copies in a conspicuous place in the premises where isolation or quarantine has been imposed.

iv. Along with the written order, and by the same means of distribution, the Tribal Health Officer shall provide the person or group of persons detained with the following written notice:

“NOTICE: You have the right to petition the Tribal Court for release from isolation or quarantine in accordance with Code 40 Emergency Communicable Disease Code of the Pueblo of Isleta. You have a right to legal counsel. If you are unable to afford legal counsel, then counsel will be appointed for you at government expense and you should request the appointment of counsel at this time. If you currently have legal counsel, then you have an opportunity to contact that counsel for assistance.”

v. Following the imposition of isolation or quarantine pursuant to this Section, the Tribal Health Officer, within twenty-four hours, shall petition the court for an order authorizing involuntary detention in accordance with Section 40.7.3(b).

b) **Isolation and Quarantine with a Tribal Court Order.** If a Tribal Health Officer petitions the Tribal Court ex parte for an order authorizing involuntary detention of a person or group of persons for purposes of isolation or quarantine pursuant to this Section:

- i. The petition shall specify:
 - A. The identity of all persons or groups to be subject to isolation or quarantine;
 - B. The premises where isolation or quarantine will take place;
 - C. The date and time at which isolation or quarantine will commence;
 - D. The suspected communicable disease or infectious agent if known;
 - E. The anticipated duration of isolation or quarantine based on the suspected communicable disease or infectious agent if known;
 - F. The measures taken by the Tribal Health Officer to seek voluntary



1 compliance or the basis on which the Tribal Health Officer determined
2 that seeking voluntary compliance would create a risk of serious harm;
3 and
4

5 G. The medical basis on which isolation or quarantine is justified.
6

7 ii. The petition shall be accompanied by the declaration of the Tribal Health
8 Officer attesting to the facts asserted in the petition, together with any further
9 information that may be relevant and material to the Tribal Court's
10 consideration.
11

12 iii. Notice to the persons or groups identified in the petition shall be accomplished
13 in accordance with the rules of civil procedure. The Tribal Court shall hold a
14 hearing on a petition filed pursuant to this Section within seventy-two hours of
15 filing, exclusive of Saturdays, Sundays, and holidays.
16

17 iv. The Tribal Court shall issue the order if there is a reasonable basis to find that
18 isolation or quarantine is necessary to prevent a serious and imminent risk to
19 the health and safety of others.
20

21 v. A Tribal Court order authorizing isolation or quarantine as a result of an ex
22 parte hearing shall:
23

24 A. Specify a maximum duration for isolation or quarantine for a period of
25 time not longer than the longest usual incubation period of the
26 infectious agent, to be determined on the advice of the Tribal Health
27 Officer;
28

29 B. Identify the isolated or quarantined persons or groups by name or
30 shared or similar characteristics or circumstances;
31

32 C. Specify factual findings warranting isolation or quarantine pursuant to
33 this Section;
34

35 D. Include any conditions necessary to ensure that isolation or quarantine
36 is carried out within the stated purposes and restrictions of this
37 Section;
38

39 E. Specify the premises where isolation or quarantine will take place;
40

41 F. Specify any violation of the Tribal Court Order will be a violation of
42 the Pueblo of Isleta Law and Order Code 30-17-10 Obstructing
43 Judiciary or Officers; and
44
45



1 G. Be served on all affected persons or groups in accordance with the
2 rules of civil procedure.
3

4 c) **Continued Involuntary Isolation and Quarantine.** A Tribal Health Officer may
5 petition the Tribal Court for an order authorizing the continued isolation or quarantine
6 of a person or group detained under a Tribal Court order under Section 40.7.3(b) for a
7 period up to thirty days.
8

9 i. The petition shall specify:

10 A. The identity of all persons or groups subject to isolation or quarantine;

11 B. The premises where isolation or quarantine is taking place;

12 C. The communicable disease or infectious agent if known;

13 D. The anticipated duration of isolation or quarantine based on the
14 suspected communicable disease or infectious agent if known; and

15 E. The medical basis on which continued isolation or quarantine is
16 justified.
17

18 ii. The petition shall be accompanied by the declaration of the Tribal Health
19 Officer attesting to the facts asserted in the petition, together with any further
20 information that may be relevant and material to the Tribal Court's
21 consideration.
22

23 iii. The petition shall be accompanied by a statement of compliance with the
24 conditions and principles for isolation and quarantine contained in Section
25 40.6.1, Conditions and Principles for Voluntary and Involuntary Isolation and
26 Quarantine.
27

28 iv. Notice to the persons or groups identified in the petition shall be accomplished
29 in accordance with the rules of civil procedure.
30

31 v. The Tribal Court shall hold a hearing on a petition filed pursuant to this
32 Section within seventy-two hours of filing, exclusive of Saturdays, Sundays,
33 and holidays.
34

35 vi. The Tribal Court shall grant the petition if it finds that there is clear and
36 convincing evidence that isolation or quarantine is necessary to prevent a
37 serious and imminent risk to the health and safety of others.
38

39 vii. A Tribal Court order authorizing continued isolation or quarantine as a result
40 of a hearing shall:
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- A. Specify a maximum duration for isolation or quarantine not to exceed thirty days;
- B. Identify the isolated or quarantined persons or groups by name or shared or similar characteristics or circumstances;
- C. Specify factual findings warranting isolation or quarantine pursuant to this Section;
- D. Include any conditions necessary to ensure that isolation or quarantine is carried out within the stated purposes and restrictions of this Section;
- E. Specify the premises where isolation or quarantine will take place;
- F. Specify any violation of the Tribal Court Order will be a violation of the Pueblo of Isleta Law and Order Code 30-17-10 Obstructing Judiciary or Officers; and
- G. Be served on all affected persons or groups in accordance with the rules of civil procedure.

d) **Petition for Additional Continued Involuntary Detention.** Prior to the expiration of a Tribal Court order for continued detention issued pursuant to subsection (c) of this Section, the Tribal Health Officer may petition the Tribal Court to continue isolation or quarantine provided:

- i. The Tribal Court finds there is a reasonable basis to require continued isolation or quarantine to prevent a serious and imminent threat to the health and safety of others; and
- ii. The order shall be for a period not to exceed thirty days.

e) **Emergency Declarations Supersede this Article 40.7.** Tribal emergency declarations governing procedures for detention, examination, counseling, testing, treatment, vaccination, isolation, quarantine, or other disease control measures for specified health emergencies or specified communicable diseases, including, but not limited to, tuberculosis and HIV, shall supersede this Article 40.7.

§ 40.7.4 Isolation or Quarantine Premises

a) Entry into isolation or quarantine premises shall be restricted under the following conditions:



- i. The Tribal Health Officer may authorize physicians, health care workers, or others access to individuals in isolation or quarantine pursuant to Section 40.7.3, Involuntary Isolation or Quarantine, as necessary to meet the needs of isolated or quarantined individuals;
 - ii. No person, other than a person authorized by the Tribal Health Officer, shall enter isolation or quarantine premises;
 - iii. Any person entering isolation or quarantine premises shall be provided with infection control training and may be required to wear personal protective equipment or receive vaccination as appropriate; and
 - iv. Any person entering isolation or quarantine premises with or without authorization of the Tribal Health Officer may be isolated or quarantined.
- b) Persons subject to isolation or quarantine and persons entering isolation or quarantine premises shall obey the rules and orders established by the Tribal Council, Governor and/or the Tribal Health Officer, and failure to do so shall constitute a misdemeanor consistent with the provisions of Section 40.10.1, Criminal Penalties.

§ 40.7.5 Relief from isolation or quarantine.

Any person or group of persons isolated or quarantined pursuant to this Article 40.7 may seek relief from involuntary detention from the Tribal Court, as follows:

- a) Any person or group of persons detained by order of a Tribal Health Officer pursuant to Section 40.7.3, Involuntary Isolation or Quarantine, may apply to the Tribal Court for an Order to Show Cause for why the individual or group should not be released.
 - i. The Tribal Court shall rule on the application to show cause within forty-eight hours of its filing.
 - ii. The Tribal Court shall schedule a hearing on the application for an Order to Show Cause within seventy-two hours, exclusive of Saturdays, Sundays and holidays.
 - iii. The issuance of an order to show cause shall not stay or enjoin an isolation or quarantine order.
- b) An individual or group isolated or quarantined may request a hearing in the Tribal Court for remedies regarding breaches to the conditions of isolation or quarantine required by Section 40.7.1 Conditions and Principles for Isolation and Quarantine.
 - i. A request for a hearing shall not stay or enjoin an isolation or quarantine order.



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2 ii. Upon receipt of a request under this Section 40.7.5 alleging extraordinary
3 circumstances justifying the immediate granting of relief, the Tribal Court
4 shall hold a hearing within seventy-two hours, exclusive of Saturdays,
5 Sundays and holidays.
6

7 c) Any hearings for relief under this Article 40.7 involving a petitioner or petitioners
8 judged to be contagious for a communicable disease will be conducted in a manner
9 that utilizes appropriate infection control precautions and minimizes the risk of
10 disease transmission.
11

12 **§ 40.7.6 Right to Counsel**
13

14 A person or group of persons isolated or quarantined pursuant to Section 40.7.3,
15 Involuntary Isolation or Quarantine, has a right to be represented by counsel if they so
16 elect. If such person or group requests counsel and cannot afford counsel, the Tribal
17 Court shall appoint counsel consistent with the Pueblo of Isleta Public Defender
18 Ordinance, the Tribal Health Officer must provide adequate means of communication
19 between such persons or groups and their counsel.
20

21 **ARTICLE 40.8 COMMUNICABLE DISEASE EMERGENCIES**
22

23 **§ 40.8.1 Declaring a State of Public Health Emergency**
24

25 a) **Declaration.** A tribal public health emergency may be declared by the Tribal Council
26 upon the occurrence of a public health emergency. Prior to such a declaration, the
27 Tribal Council may consult with tribal, federal, state and local public health agencies
28 and any additional public health or other experts as needed.
29

30 b) **Content of Declaration.** A state of public health emergency shall be declared by a
31 resolution that specifies:
32

- 33 i. The nature of the public health emergency;
34
35 ii. The political subdivision(s) or geographic area(s) subject to the declaration;
36
37 iii. The conditions that have brought about the public health emergency;
38
39 iv. The duration of the state of the public health emergency, if less than thirty
40 (30) days; and
41
42 v. The designated Tribal Health Officer responding to the emergency.
43

44 c) **Effect of Declaration.** The declaration of a public health emergency shall activate the
45 response and recovery aspects of the tribal disaster emergency plans. Such declaration



1 authorizes the deployment and use of any forces to which the plans apply and the use
2 or distribution of any supplies, equipment, and materials and facilities assembled,
3 stockpiled, or available pursuant to this Code.
4

- 5 d) **Emergency Powers.** During a public health emergency, the Tribal Council and
6 Governor, may, pursuant to their respective authorities, act in concert to:
7
8 i. Suspend the provisions of any tribal policies, procedures, and laws prescribing
9 procedures for conducting tribal business, or the orders, rules and regulations
10 of any tribal department or agency, where strict compliance with the same
11 would prevent, hinder, or delay necessary action (including emergency
12 purchases) to respond to the public health emergency by the Pueblo, or would
13 increase the health threat to the population.
14
15 ii. Utilize all available resources of the tribal government and its political
16 subdivisions, as reasonably necessary, to respond to the public health
17 emergency.
18
19 iii. Transfer the direction, personnel, or functions of tribal departments and
20 agencies to perform or facilitate response and recovery programs regarding
21 the public health emergency.
22
23 iv. Provide aid to and seek aid from federal, state, and local partners.
24
- 25 e) **Enforcement.** During a state of public health emergency, the Pueblo may enforce
26 orders issued pursuant to this Code through the utilization of law enforcement and the
27 Tribal Courts.
28
- 29 f) **Termination of Declaration.**
30
31 i. **Tribal Council Resolution.** Tribal Council shall terminate the declaration of
32 a public health emergency by Tribal Council resolution, upon the finding of
33 the Tribal Health Officer that the circumstances or conditions that caused the
34 emergency no longer exists.
35
36 ii. **Content of Termination Resolution.** The Tribal Council resolution
37 terminating the public health emergency shall indicate the nature of the
38 emergency, the area(s) that was threatened, and the conditions that make
39 possible the termination.
40
41 iii. **Orders.** The Governor shall rescind all Orders issued pursuant to the public
42 health emergency declaration.
43
44
45



1 § 40.8.2 Control Measures

- 2
- 3 a) The Governor shall have the authority to issue Orders that they deem are
- 4 necessary to prevent or control the communicable disease that gave rise to the
- 5 public health emergency.
- 6
- 7 b) The Tribal Health Officer, in concurrence with the Governor, shall have the
- 8 authority to issue Orders that they deem are necessary to prevent or control the
- 9 communicable disease that gave rise to the public health emergency.

10

11 § 40.8.3 Management of Property

- 12
- 13 a) **Emergency Measures Concerning Facilities and Materials.** During a public health
- 14 emergency, the Governor, or Tribal Health Officer with Governor’s concurrence, is
- 15 authorized to:
- 16
- 17 i. Close, direct, and compel the evacuation of, or decontaminate or cause to be
- 18 decontaminated any facility of which it has reasonable cause to believe that it
- 19 may endanger the public’s health.
- 20
- 21 ii. Procure by condemnation or otherwise, construct, lease, transport, store,
- 22 maintain, renovate, or distribute materials and facilities as may be reasonable
- 23 and necessary to respond to the public health emergency, with the right to take
- 24 immediate possession thereof. Such materials and facilities include
- 25 communication devices, carriers, real estate, fuels, food, clothing, personal
- 26 protective equipment, medical equipment and supplies, and cleaning supplies.
- 27
- 28 iii. Require a health care facility to provide services or the use of its facility, if
- 29 such services or use are reasonable and necessary to respond to the public
- 30 health emergency, as a condition of the ability to continue operating as a
- 31 health care facility.
- 32
- 33 iv. Decontaminate or cause to be decontaminated, or destroy, any material of
- 34 which the Tribal Health Officer has reasonable cause to believe that it may
- 35 endanger the public’s health.
- 36
- 37 v. Inspect, control, restrict, and regulate by rationing and using quotas,
- 38 prohibitions on shipments, allocation, or other means, the use, sale,
- 39 dispensing, distribution, or transportation of food, fuel, clothing and other
- 40 commodities, as may be reasonable and necessary to respond to the public
- 41 health emergency.
- 42
- 43 b) **Control of Roads, Public Areas, and Nonmembers.** During a public health
- 44 emergency, the Governor is authorized to:
- 45



- 1 i. Prescribe routes, modes of transportation, and destinations in connection with
2 evacuation of individuals or the provision of emergency services, in
3 accordance with local laws and applicable Right of Way Agreements.
4
- 5 ii. Control or limit ingress and egress to and from any stricken or threatened
6 public area, the movement of individuals within the area, and the occupancy
7 of premises therein, if such action is reasonable and necessary to respond to
8 the public health emergency, in accordance with local laws and applicable
9 Right of Way Agreements.

10
11 c) **Safe Disposal of Infectious Waste or Contaminated Material.** During a public
12 health emergency, the Governor is authorized to:

- 13
14 i. Adopt and enforce measures to provide for the safe disposal of infectious
15 waste or contaminated material as may be reasonable and necessary to
16 respond to the public health emergency. Such measures may include the
17 collection, storage, handling, destruction, treatment, transportation, and
18 disposal of infectious waste or contaminated material.
19
- 20 ii. Require any business or facility authorized to collect, store, handle, destroy,
21 treat, transport, and dispose of infectious waste or contaminated material
22 under the laws of this Tribe, and any landfill business or other such property,
23 to accept infectious waste or contaminated material, or provide services or the
24 use of the business, facility, or property if such action is reasonable and
25 necessary to respond to the public health emergency as a condition of
26 licensure, authorization, or the ability to continue doing business in the Tribe
27 as such a business or facility. The use of the business, facility, or property
28 may include transferring the management and supervision of such business,
29 facility, or property to the Tribe for a limited or unlimited period of time.
30
- 31 iii. Procure, by condemnation or otherwise, any business or facility authorized to
32 collect, store, handle, destroy, treat, transport, and dispose of infectious waste
33 or contaminated material under the laws of this Tribe and any landfill business
34 or other such property as may be reasonable and necessary to respond to the
35 public health emergency, with the right to take immediate possession thereof.
36
- 37 iv. Require all bags, boxes, or other containers for infectious waste or
38 contaminated material to be clearly identified as containing infectious waste
39 or contaminated material, and if known, the type of infectious waste or
40 contaminated material (consistent with tribal laws).

41
42 d) **Control of Health Care Supplies.**

- 43
44 i. **Procurement.** During a public health emergency, the Pueblo may purchase
45 and distribute anti-toxins, serums, vaccines, immunizing agents, antibiotics,



1 antidotes, and other pharmaceutical agents, medical supplies, or personal
2 protective equipment to prepare for or respond to a public health emergency.

3
4 ii. **Rationing.** Where a public health emergency results in a tribal-wide, regional
5 or national shortage or threatened shortage of any product under subsection
6 (i), whether or not such product has been purchased by the Pueblo, the Pueblo
7 may control, restrict, and regulate by rationing and using quotas, prohibitions
8 on shipments, allocation, or other means, the use, sale, dispensing,
9 distribution, or transportation of the relevant product. In making rationing or
10 other supply and distribution decisions, the Pueblo may give preference to
11 health care providers or disaster response personnel.

12
13 iii. **Distribution.** During a public health emergency, the Pueblo may store or
14 distribute any anti-toxins, serums, vaccines, immunizing agents, antibiotics,
15 antidotes, and other pharmaceutical agents, personal protective equipment, or
16 medical supplies located within the Pueblo as may be reasonable and
17 necessary to respond to the public health emergency, with the right to take
18 immediate possession thereof.

19
20 e) **Civil Proceedings.** To the extent practicable and consistent with the protection of
21 public health, prior to the destruction of any property under this Code, the Pueblo
22 shall institute appropriate civil proceedings concerning the property to be destroyed in
23 accordance with the existing laws and rules of the Tribal Court or any such rules that
24 may be developed by the Tribal Court for use during a public health emergency. Any
25 property acquired by the Pueblo through such proceedings shall, after entry of the
26 decree, be disposed of by destruction as the Tribal Court may direct.

27
28 **§ 40.8.4 Appointment of Health Personnel from Other Jurisdictions**

29
30 Any health care provider or other personnel from another jurisdiction providing
31 assistance to the Pueblo pursuant to this Code shall not be held liable for any civil
32 damages as a result of medical care or treatment related to the response to the public
33 health emergency unless such damages result from providing, or failing to provide,
34 medical care or treatment in the event of gross negligence or willful misconduct.

35
36 **§ 40.8.5 Private Liability**

37
38 a) During a public health emergency, any person owning, controlling land assignments,
39 or other premises who voluntarily and without compensation permits the designation
40 or use of the whole or any part of such real estate or premises for the purpose of
41 sheltering individuals, together with that person's successors in interest, if any, shall
42 not be civilly liable for negligently causing the death of, or injury to, any individual
43 on or about such real estate or premises under permission, or for negligently causing
44 loss of, or damage to, the property of such person.



- 1 b) During a public health emergency, any person and employees and agents of such
2 person in the performance of a contract or an agreement with, and under the direction
3 of, the Pueblo or its political subdivisions, or who renders assistance or advice at the
4 request of the Pueblo or its political subdivisions under the provisions of this Article
5 shall not be civilly liable for causing the death of, or injury to, any individual or
6 damage to any property except in the event of gross negligence or willful misconduct.
7

8 **ARTICLE 40.9 COMMUNICABLE DISEASE—SCHOOLS AND CHILDCARE**
9 **CENTERS**

10
11 **§ 40.9.1 Purpose**

12
13 The rules in this Article identify certain communicable diseases that may affect children,
14 or others who are susceptible, in schools, and childcare centers. When an outbreak or
15 potential outbreak of a communicable disease is identified in a tribal school or tribal
16 childcare center, the rules in this Article identify what schools, childcare centers and the
17 Pueblo may do to control or prevent a potential outbreak of the communicable disease.
18 These rules are in addition to other requirements imposed by Article 40.6, Notifiable
19 Conditions. These rules do not require a tribal school or tribal childcare center personnel
20 to diagnose or treat children.
21

22 **§ 40.9.2 Control of Communicable Disease.**

- 23
24 a) When a tribal school or childcare center becomes aware of the presence of a
25 communicable disease at the facility, as defined in this Code, the officials at the tribal
26 school or childcare center shall notify the Tribal Health Officer for guidance.
27
28 b) When there is an outbreak of a communicable disease, as defined in this Code, and
29 there is the potential for a case or cases within a tribal school or childcare center, the
30 Tribal Health Officer shall take all appropriate actions deemed to be necessary to
31 control or eliminate the spread of the disease including, but not limited to:
32
33 i. Closing part or all of the affected school(s) or childcare center(s);
34
35 ii. Closing other schools or childcare centers;
36
37 iii. Canceling activities or functions at schools or childcare centers;
38
39 iv. Excluding from schools or childcare centers any students, staff, and volunteers
40 who are infectious, or exposed and susceptible to the disease.
41
42 c) Prior to taking action the Tribal Health Officer shall:
43
44 i. Consult with the Governor and Tribal Council;
45



- 1 ii. Consult with and discuss the ramifications of action with the Principal of the
- 2 school, or the Director of the childcare center or their designees on the
- 3 proposed action; and
- 4
- 5 iii. Provide the Principal of the school or the Director of the childcare center or
- 6 their designees a written decision, in the form and substance of an order,
- 7 directing them to take action. The order must set the terms and conditions
- 8 permitting;
- 9
- 10 A. Schools or childcare centers to reopen;
- 11 B. Activities and functions to resume; and
- 12 C. Excluded students, staff and volunteers to be readmitted.
- 13
- 14 iv. Pursue, in consultation with tribal school or childcare officials, the
- 15 investigation of the source of disease, or those actions necessary to ultimately
- 16 control the disease.
- 17

18 **ARTICLE 40.10 ENFORCEMENT**

19

20 **§ 40.10.1 Tribal Health Officer Orders, Governor Orders or Tribal Court Orders**

- 21
- 22 a) Any Order issued by the Governor or Tribal Health Officer shall constitute the duly
- 23 authorized application of lawful rules adopted by the Tribal Council and must be
- 24 enforced by all tribal law enforcement officers and all other officers and employees of
- 25 any political subdivisions within the jurisdiction of the Pueblo of Isleta.
- 26
- 27 b) Any person who shall violate any of the provisions of this Code or any lawful rule or
- 28 order issued by the Governor or Tribal Health Officer shall be deemed guilty of a
- 29 misdemeanor punishable as provided under Section 40.10.2, Criminal Penalties.
- 30
- 31 c) Any person who violates a Tribal Court Order issued pursuant to this Code, shall be
- 32 deemed guilty of violating the Pueblo of Isleta Law and Order Code Section 30-17-
- 33 10, Obstructing Judiciary or Officers.
- 34

35 **§ 40.10.2 Criminal Penalties**

36

37 Any person violating any of the provisions of this Code shall be guilty of a Class C

38 Misdemeanor as defined in the Pueblo of Isleta Law and Order Code.

39

40 **ARTICLE 40.11 CONSOLIDATION**

41

42 In any proceedings brought pursuant to this Code, to promote the fair and efficient

43 operation of justice and having given due regard to the rights of affected persons, the

44 severity of the threat to the public's health, and the availability of necessary witnesses and

45 evidence, the Tribal Court may order the consolidation of individual claims into group



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claims where:

- a) The number of individuals involved or to be affected is so large as to render individual participation impractical;
- b) There are questions of law or fact common to the individual claims or rights to be determined;
- c) The group claims or rights to be determined are the same as the affected persons' claims or rights; and

The entire group will be adequately represented in the consolidation.

ARTICLE 40.12 SOVEREIGN IMMUNITY PRESERVED

Nothing in this Code shall be interpreted as a waiver of the Pueblo's sovereign immunity from unconsented suit, or as an authorization for a claim for monetary damages against the Pueblo.



[[Legislative History]]

This Emergency Communicable Disease Code was adopted in order to address the 2020 Coronavirus (COVID-19) that was declared a Public Health Emergency by the World Health Organization (WHO) on January 30, 2020. On March 11, 2020 the WHO characterized COVID-19 as a global pandemic. On March 13, 2020 the Pueblo of Isleta passed Tribal Council Resolution 2020-011 declaring a public health emergency in order to prevent, prepare for, and respond to COVID-19.

Tribal Council on September 24, 2020 clarified the legislative intent regarding the issuance of Orders addressing the communicable disease that gave rise to the public health emergency, and affirming the criminal enforceability thereof.

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