

**ATTACHMENT #1
AMENDMENTS TO THE ROSEBUD SIOUX TRIBE
LAW & ORDER CODE, TITLE FIVE, CHAPTER 45
AMENDMENTS ENACTED AS
ORDINANCE 2020-08**

5-45-1. Statement of Purpose and Intent.

- (a) It is the purpose of these Public Health Crimes to address situations that have come up during the COVID-19 Pandemic so that our tribal members, non-member residents and the public continue to treat this existential threat to our people seriously. We desire to protect the public in this current pandemic and future situations as they arise.

- (b) It is our intent that these laws be construed broadly so as to protect the public to the fullest extent possible. We note that most of these enumerated crimes are classified as Class A Offenses to reflect the seriousness of these offenses. We encourage prosecutorial discretion when considering the charges below as we aim to balance the offense with the need for the public safety.

- (c) It is our intent that these laws not refer to the common cold, but rather diseases and viruses that are more serious in nature.

5-45-2. Failure to Adhere to Terms of Tribal Presidential/Council Declaration of Public Health Emergency.

Any person who willfully or intentionally fails to adhere to the terms and conditions of a properly declared public health emergency, whether it be by Tribal Council Resolution or Tribal Presidential Declaration is guilty of the Offense of Failure to Adhere to Terms of a Presidential/Council Declaration of Public Health Emergency.

The elements are:

- 1) Notice of the Declaration and its terms must have been made public; and
- 2) The Declaration must have been in force when the failure to adhere took place; and
- 3) The Defendant willfully or intentionally committed an act that was in violation of one of the terms of the Declaration including but not limited to a shelter-in-place, essential activities, lockdowns or other extreme measures.

Failure to Adhere to Terms of Presidential/Council Declaration of Public Health Emergency is a Class B Offense.

5-45-3 Failure to Cooperate with Law Enforcement or Public Health Official

For the purposes of this section, a public health official shall be defined as

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- 1) a person who is employed by the Indian Health Service as a health care provider or RST Health Administration or Community Health Representative (CHR) Program or a paramedic with RST Ambulance Service, or
- 2) anyone who by memorandum of understanding, contract for services or other such agreement is performing services including but not limited to contact tracing and related investigations normally provided by the agencies stated in (1), or
- 3) persons appointed by resolution of the tribal council or declaration of the President who perform tasks such as contact tracing and other functions relating to communicable diseases such as COVID-19 and others.

Law Enforcement is defined as any tribally commissioned officers, criminal investigators, corrections officers, federal officers, or U.S. Marshals.

It shall be a violation of this section for any person who willfully or intentionally:

- a) lies, misleads, or otherwise provides information which he or she knows is false or not completely true to a law enforcement officer or a public health officer, or
- b) refuses to provide information described in paragraph (a) above, or
- c) refuses a directive of law enforcement or a public health officer to remain inside their residence or take some other measure calculated to protect the public from exposure to a communicable disease, or
- d) disobeys a reasonable instruction by law enforcement officer or a public health official

Failure to Cooperate with Law Enforcement or Public Health Official is a Class A Offense.

5-45-4 Failure to Quarantine

Quarantine as used in this statute is defined as a strict isolation imposed to prevent the spread of disease. It is the separation of a person or group of people, from others who have not been so exposed or diagnosed, to prevent the possible spread of the communicable disease.

Any person who has been diagnosed with COVID-19 or other contagious disease who willfully or intentionally refuses or otherwise does not quarantine themselves in their residence or some other structure designed for quarantines pursuant to either:

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- a. A court order requiring he or she to quarantine so that they do not expose the public to COVID-19 or another communicable disease, or
- b. A doctor's order or recommendation that the person quarantine, or a
- c. A Tribal Presidential Declaration or Council Declaration of Public Health Emergency

Is Guilty of Failure to Quarantine.

Failure to Quarantine is a Class A Offense with a mandatory minimum of fourteen (14) days.

Upon conviction of this offense, the defendant shall provide a list of all persons that they came into contact with as a result of their failure to quarantine. Failure to provide a truthful list may result in additional charges under RSTLOC §5-16-2.

5-45-5 Intentional Spread of Virus or Disease

Subject to the defenses noted in 5-45-6, any person who has been diagnosed as being infected with COVID-19 or other contagious disease who willfully or acts maliciously in an attempt to infect others for the purpose of making others sick whether by coughing, spitting, injection or other means to communicate a disease

Is Guilty of Intentional Spread of Virus or Disease

Intentional Spread of Virus or Disease is a Class A Offense with a mandatory minimum sentence of ninety (90) days.

5-45-6 Defenses to Intentional Spread of Virus or Disease

- a) It shall be a defense to a prosecution under RSTLOC 5-45-5 that a person is quarantining in his or her home and those they infect are household members.
- b) It shall be a rebuttable defense that a person who was tested for COVID-19 or other contagious disease and received notice of diagnosis after the alleged act.

ROSEBUD SIOUX TRIBE
Resolution No. 2020-116

WHEREAS, The Rosebud Sioux Tribe is a federally recognized Indian Tribe organized pursuant to the Indian Reorganization Act of 1934 and pertinent amendments thereof; and

WHEREAS, The Rosebud Sioux Tribe is governed by a Tribal Council made up of elected representatives who act in accordance with the powers granted to it by its Constitution and By-laws; and

WHEREAS, The Rosebud Sioux Tribal Council is authorized to promulgate and enforce ordinances for the maintenance of law and order, and to safeguard the peace and morals, and general welfare of the Tribe, pursuant to the Rosebud Sioux Tribe Constitution and By-Laws Article IV Sections 1 (k), and (m), and

WHEREAS, The Rosebud Sioux Tribe is authorized to provide for the protection of all minors, mentally incompetent and any others who need protection or assistance for reason of health, age, or other extenuating circumstances, pursuant to Rosebud Sioux Tribe Constitution and By-laws Article IV Section 1 (q); and

WHEREAS, The Rosebud Sioux Tribe Attorney General has recommended the Rosebud Sioux Tribal Council amend and/or repeal Rosebud Sioux Tribe Law and Order Code Title 5, Chapter 45, PUBLIC HEALTH CRIMES, 5-45-1, 5-45-2, 5-45-3, 5-45-4, 5-45-5, 5-45-5, and 5-45-6, shall be amended and/or repealed, with amendments signified as underlined text, and repealed text with a strikethrough, in Attachment #1, and;


THEREFORE BE IT RESOLVED, that the Rosebud Sioux Tribal Council adopts and amends the Rosebud Sioux Tribe Law and Order Code enacted as RST Ordinance No. 2020-08; and

BE IT ALSO RESOLVED, that the effective date of the amendments to the Rosebud Sioux Tribe Law and Order Code Title 5, Chapter forty five, shall be final upon approval by the Rosebud Sioux Tribal Council.


CERTIFICATION

This is to certify that the above petition Resolution No. 2020-116 and Ordinance 2020-08 was duly passed by the Rosebud Sioux Tribal Council for a first reading on May 14, 2020, by a vote of sixteen (16) in favor, zero (0) opposed and zero (0) not voting and ratified on May 26, 2020. A second reading was held on May 26, 2020, by a vote of sixteen (16) in favor, zero (0) opposed and zero (0) not voting. The said resolution was adopted pursuant to authority vested in the Council. A quorum was present.

ATTEST:



Wayne Boyd, Secretary
Rosebud Sioux Tribe



Rodney Bordeaux, President
Rosebud Sioux Tribe