

WINNEBAGO TRIBAL CODE

TITLE 7  
HEALTH, SAFETY, AND WELFARE

ARTICLE 20  
PUBLIC HEALTH CODE

7-2001	Citation.	7-2006	Enforcement.
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7-2005	Isolation and Quarantine.		

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**7-2001 Citation.**

This Article shall be known as the Winnebago Public Health Code. This Article is promulgated pursuant to Article IV (c) and (q) of the Constitution and Bylaws of the Winnebago Tribe of Nebraska. This Article is necessary to protect the health, safety and general welfare of the Winnebago Tribe and all persons within the Winnebago Reservation.

**7-2002 Purpose.**

The purposes of this Article are:

1. To grant Winnebago Tribal health officials additional authority to provide care, treatment, and vaccination to persons who are ill or who have been exposed to contagious diseases, and to isolate or quarantine affected individuals from the reservation population at large to interrupt disease transmission after a public health emergency has been declared;
2. To ensure that the needs of infected or exposed persons are properly addressed to the fullest extent possible, given the primary goal of controlling serious health threats; and
3. To provide Winnebago tribal officials with the ability to prevent, detect, manage, and contain emergency health threats.

**7-2003 Definitions.**

Where a term is not defined in this Article, it shall be given its ordinary meaning. Terms used in this Article, and in regulations adopted under it, shall have the following meaning, except where otherwise defined within this Article or where the context clearly indicates otherwise:

1. "Contagious Disease" is an infectious disease that can be transmitted from person to person, animal to person, or insect to person.
2. "Health Care Provider" means any person or entity who provides health care services to Winnebago Tribal members and others, including, but not limited to, behavioral health providers, hospitals, medical centers and offices, special care facilities, physicians, pharmacists, dentists, physician assistants, nurse practitioners, paramedics and emergency medical workers.
3. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996 including all corresponding federal regulations in 45 C.F.R. Subpart E.
4. "Infectious Disease" is a disease caused by a living organism or other pathogen, including a fungus, bacteria, parasite, protozoan, or virus. An infectious disease may, or may not, be transmissible from person to person, animal to person, or insect to person.
5. "Isolation" means the physical separation and possible confinement of an individual or groups of

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- individuals who are infected with a contagious or possibly contagious disease from non-isolated individuals, to prevent or limit the transmission of the disease to non-isolated individuals.
6. "Protected Health Information" is any information, whether oral, written, electronic, visual, or any other form, that relates to an individual's past, present or future physical or mental health status, condition, treatment, service, products purchased or provision of care, and that reveals the identity of the individual whose health care is the subject of the information, or where there is a reasonable basis to believe such information could be utilized to reveal the identity of that individual.
  7. "Public Health Administrator" means the Administrator of the Winnebago Public Health Department.
  8. "Public Health Emergency" is an occurrence or imminent threat of an illness or health condition that:
    - a. Is believed to be caused by any of the following:
      - i. Bioterrorism
      - ii. The appearance of a novel or previously controlled or eradicated biological agent.
    - b. Poses a high probability of any of the following:
      - i. Widespread illness or a large number of deaths or serious or long-term disability among humans;
      - ii. A high probability of widespread exposure to a biological or chemical agent that creates a significant risk of substantial future harm to a large number of people.
  9. "Public Health Emergency Declaration" is a Tribal Council resolution declaring the existence of a public health emergency as defined in this section.
  10. "Community Members" means all persons residing, working, traversing or within the Winnebago Reservation.
  11. "Winnebago Law Enforcement" means the public safety authority that act principally to protect and preserve the public safety or any other person within the Winnebago Reservation.
  12. "Quarantine" is the physical separation and confinement of an individual or groups of individuals for a specified amount of time that have been or may have been exposed to a contagious or possibly contagious disease and who do not show signs or symptoms of a contagious disease, from non-quarantined individuals, to prevent or limit transmission of the disease to non-quarantined individuals.
  13. "Quarantine authority" means the authority to issue an order to limit the freedom of movement or action of persons or animals which have been exposed to or are reasonably suspected of having been exposed to a communicable disease or communicable condition for a period of time as may be necessary to prevent the spread of that disease. Quarantine authority also means the authority to issue an order to limit access by any person or animal to an area or facility that may be contaminated with an infectious agent. The term also means the authority to issue an order to limit the freedom of movement or action of persons who have not received immunizations against a communicable disease when the Public Health Administrator determines that the immunizations are required to control an outbreak of that disease.
  14. "Temporary Reporting Order" means an order requiring health care providers to report cases or suspected cases of contagious or infectious diseases as defined in this Article.
  15. "Tribal Court" means the Winnebago Tribal Court established under Title 1 of the Winnebago Tribal Code.
  16. "Winnebago Tribal Council" or "Tribal Council" means the Winnebago Tribal Council.

### **7-2004 Declaration.**

The Winnebago Tribal Council may declare a Public Health Emergency. Prior to such declaration the Tribal Council shall consult with the Public Health Administrator and any other additional public health

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or other experts as needed.

1. Under this Article the Public Health Administrator is empowered to:
  - a. Receive reports of any events that may indicate the existence of a case or outbreak of an illness, condition, or health hazard that may have been caused by biological or chemical agents;
  - b. Investigate, or invite appropriate health officials in to investigate known, discovered or suspected communicable diseases and communicable conditions;
  - c. Issue a Temporary Reporting Order requiring health care providers to report symptoms, diseases, conditions, trends in use of health care services, or other health-related information when necessary to conduct a public health investigation or surveillance of an illness, condition, or health hazard that may have been caused by biological or chemical agents. The order shall specify which health care providers must report, what information is to be reported, and the period of time for which reporting is required. The period of time for which reporting is required pursuant to a temporary order shall not exceed 90 days;
  - d. Examine, review, and obtain a copy of records containing confidential or protected health information, or a summary of pertinent portions of those records, that pertain to a report authorized by or required in this Article and allowed under Federal law;
  - e. Exercise quarantine and isolation authority within the Winnebago Reservation under the following conditions:
    - i. Only when and so long as the public health is endangered,
    - ii. All other reasonable means for correcting the problem have been exhausted, and
    - iii. No less restrictive alternative exists;
  - f. Inform the Community Members when a public health emergency has been declared or terminated, how to protect themselves during a public health emergency, and what actions are being taken to control the emergency. The Public Health Administrator shall provide information by all available and reasonable means calculated to bring the information promptly to the attention of Community Members; and
  - g. Invoke the powers of Winnebago Police Department, and all other officers and employees within the jurisdiction of the Tribal Council to enforce immediately orders given to effectuate the purposes of this Article.
2. Notwithstanding any other provision of law, a health care provider, a person in charge of a health care facility, or a unit of government may report to the Public Health Administrator any events that may indicate the existence of a case or outbreak of an illness, condition, or health hazard that may have been caused by biological or chemical agents. Events that may be reported include unusual types or numbers of symptoms or agents.
3. A person who makes a report pursuant to this Article or permits examination, review, or copying of medical records is immune from any civil or criminal liability that otherwise might be incurred or imposed as a result of complying with those subsections as permitted by Federal law.
4. All information and records, whether publicly or privately maintained, that identifies a person who has or may have a disease or condition required to be reported as a communicable disease shall be strictly confidential. This information shall not be released or made public except under the following circumstances:
  - a. Release is made of all or part of the medical record with the written consent of the person or persons identified or their guardian;
  - b. Release is made to health care personnel providing medical care to the patient;
  - c. Release is necessary to protect the public health;
  - d. Release is made pursuant to subpoena or court order. Upon request of the person identified in the record, the record shall be reviewed in camera. In the hearing, the judge may, during the taking of testimony concerning such information, exclude from the

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- courtroom all persons except the officers of the court, the parties and those engaged in the trial of the case;
- e. Release is made by the Winnebago Public Health Department, health care provider, or health care facility, to a court or a law enforcement official for the purpose of enforcing communicable disease laws. A law enforcement official who receives the information shall not disclose it further, except:
    - i. When necessary to enforce communicable disease laws, or
    - ii. When the Winnebago Public Health Department, health care provider, or health care facility, seeks the assistance of the law enforcement official in preventing or controlling the spread of the disease or condition and expressly authorizes the disclosure as necessary for that purpose;
  - f. Release is made by the Winnebago Public Health Department, health care provider, or health care facility, to another tribal, federal, state or local public health agency for the purpose of preventing or controlling the spread of a communicable disease or communicable condition.
5. Confidential or protected health information received by the Winnebago Public Health Administrator pursuant to this Article shall be confidential and shall not be released, except when the release is:
- a. Made pursuant to any other provision of law;
  - b. To another tribal, federal, state, or local public health agency for the purpose of preventing or controlling a public health threat; or
  - c. To a court or law enforcement official or law enforcement officer for the purpose of enforcing the provisions of this Article or for the purpose of investigating an incident, biological, or chemical agents.
6. A Tribal Court official or Winnebago law enforcement officer who receives the information shall not disclose it further, except:
- a. When necessary to conduct an investigation of a terrorist incident using biological, or chemical agents, or
  - b. When the Public Health Administrator seeks the assistance of the court or law enforcement official or law enforcement officer in enforcing an Isolation Order which is designed to prevent or control the public health threat and expressly authorizes the disclosure as necessary for that purpose.
7. The Public Health Administrator shall exercise enumerated authority to carry out the purposes of this Article within the Winnebago Indian Reservation.

### **7-2005 Isolation and Quarantine.**

1. During the Public Health Emergency, the Public Health Administrator may isolate or quarantine an individual or group of individuals. The Public Health Administrator may also establish and maintain places of isolation and quarantine, set rules and make orders subject to the provisions of this Code.
2. Home Quarantine Agreement
  - a. Depending on the severity of the infectious disease, in most instances, the Public Health Administrator shall enter into a voluntary home quarantine agreement with an individual (s) who has been exposed to an individual (s) with an infectious disease which is the subject of a public health emergency. The Public Health Administrator shall develop an agreement form that the individual or a guardian of the individual will sign agreeing to voluntary quarantine for a specific period of time.
  - b. The names of any individual under a voluntary home quarantine agreement under a public health emergency shall be provided to law enforcement to assist the Public Health

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Administrator to track compliance with the voluntary agreement. Law enforcement shall make reports to the Public Health Administrator as to whether individuals under a voluntary agreement are not staying in quarantine in violation of their voluntary agreement.

3. Public Health Isolation Order.
  - a. In the event an individual has (i) violated a voluntary home quarantine agreement or (ii) has a confirmed positive case of an infectious disease, the Public Health Administrator shall issue a public health isolation order.
  - b. The Public Health Administrator shall provide law enforcement with the names of those individuals under a public health isolation order so that law enforcement can enforce the order to ensure the individual stays isolated until it is deemed safe by the Public Health Administrator for said individual to leave isolation. The timeframe for isolation shall be no more restrictive than necessary to prevent the spread of the infectious disease.
4. The Public Health Director shall adhere to the following conditions and principles:
  - a. When isolating or quarantining individuals or groups of individuals:
    - i. Isolation and quarantine must be by the least restrictive means necessary to prevent the spread of a contagious disease to others and may include, but are not limited to, confinement to private homes or other private and public premises.
    - ii. Isolated individuals must be confined separately from quarantined individuals.
    - iii. The health status of isolated and quarantined individuals must be monitored regularly to determine if they require isolation or quarantine.
    - iv. If a quarantined individual subsequently becomes infected or is reasonably believed to have become infected with an infectious or possibly infectious disease he or she must promptly be removed to isolation.
    - v. Isolated and quarantined individuals must be immediately released when they pose no substantial risk of transmitting an infectious or possibly infectious disease to others.
    - vi. The needs of persons isolated and quarantined shall be addressed in a systematic and competent fashion, including but not limited to, ensuring adequate food, clothing, shelter, means of communication with those in isolation or quarantine and outside these settings, medication, and competent medical care.
    - vii. Premises used for isolation and quarantine shall be maintained in a safe and hygienic manner and be designed to minimize the likelihood of further transmission of infection or other harms to persons isolated or quarantined.
  - b. The Public Health Administrator may authorize health care providers or others access to individuals in isolation or quarantine as necessary to meet the needs of isolated or quarantined individuals. No person, other than a person authorized by the Public Health Administrator, shall enter isolation or quarantine premises. Any person entering an isolation or quarantine premises with or without authorization may also be isolated or quarantined by the Public Health Administrator.
5. Tribal Court Enforcement
  - a. In the event that the infectious disease is so serious that preventing the spread of infection cannot be achieved or a chance cannot be taken on a voluntary or public health order that court action is absolutely necessary to prevent the spread of the infectious disease, or an individual under a public health quarantine or isolation order has violated the order, the Public Health Administrator may petition the Tribal Court ex parte for an order to take the person or group of persons into involuntary detention for purposes of isolation or quarantine in accordance with this Article.
  - b. Winnebago Tribal Court Jurisdiction. The Tribal Court shall exercise civil and/or criminal jurisdiction to carry out the purposes of this Article. The Tribal Court may issue an order for involuntary detention for purposes of isolation or quarantine in accordance

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with this Article to interrupt disease transmission within the exterior boundaries of the Winnebago Reservation, when:

- i. The respondent is an enrolled member of the Winnebago Tribe;
  - ii. The respondent is an enrolled member of a federally recognized Indian tribe who resides within the Winnebago Reservation or on lands held in trust for the Winnebago Tribe by the United States outside the boundaries of the Reservation; or
  - iii. The Court otherwise has personal, subject matter, and territorial jurisdiction over the respondent pursuant to Title I of the Winnebago Tribal Code and subject to any federal laws restricting civil jurisdiction.
6. Emergency Detention Order. Prior to seeking an Emergency Detention Order, the Public Health Administrator shall have:
- a. Made reasonable efforts, which shall be documented, to obtain voluntary compliance with requests for medical examination, testing, treatment, counseling, vaccination, decontamination, isolation, or quarantine; or
  - b. Determined in his or her professional judgment that seeking voluntary compliance would create a risk of serious harm.
- Documentation gathered by Thurston County or one of the surrounding counties or public health departments where many tribal members reside may also be accepted and considered by the Tribal Court to show that reasonable efforts have been made.
7. Tribal Court Process.
- a. Ex Parte Order for Detention. The Tribal Court may issue ex parte orders pursuant to Winnebago Tribal Code Title 3, Article 3, requiring individuals to comply with the Emergency Quarantine or Isolation Order of the Public Health Administrator, order the Winnebago Law Enforcement to transport the individual to a designated facility for isolation, quarantine, treatment and care until such time as the Public Health Administrator determines that the individual's condition is such that it is safe for the individual to be discharged from the facility or issue other relief as necessary to protect the public health.
  - b. 72-Hour Hearing. A hearing on the Ex Parte Order for Detention shall be conducted in the Tribal Court within seventy-two (72) hours of issuance.
    - i. The Public Health Administrator shall have the burden of proving the allegations set forth in the petition by a preponderance of the evidence. The person named in the petition (respondent) shall have the ability to be represented by counsel at their own expense at any hearing held on the petition, cross-examination of witnesses, and presentation of evidence.
    - ii. At the conclusion of the 72-hour hearing, the Tribal Court shall consider the evidence, the action taken by the Public Health Administrator to secure voluntary compliance by the respondent, and the purpose and intent of this Article, and may take one of the following actions:
      - a. If the Tribal Court finds that the respondent is a suspected case, the Court may enter an order requiring that the person be subjected to further examination, testing, and treatment as specified in the Court's order. If the court finds that further detention of the respondent is necessary in order to assure that the examination, testing, and treatment occurs, or to protect the public health the court may order that the respondent be detained for an additional period not to exceed forty- five (45) days.
8. The results of testing conducted under this Article shall be provided to the court and the respondent detained or his or her legal counsel as soon as they are available to the Public Health Administrator. The Court may then conduct an additional hearing to determine whether the respondent is a confirmed case and, if so, whether further measures are necessary to protect the public health

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- pursuant to (ii) or (iii) of Subsection 7.
- a. If the Tribal Court finds that the respondent is a confirmed case, that further measures less restrictive than detention of the respondent are necessary to assure that appropriate treatment is implemented and that imposition of less restrictive measures will be sufficient to protect the public health, the Court may enter an order setting forth such measures and ordering the respondent to comply with the measures.
  - b. If the Tribal Court finds that the respondent is a confirmed case, that further detention of the respondent is necessary to protect the public health, and that imposition of less restrictive measures will not be sufficient to protect the public health, the Court may order that the respondent be detained and treated for an additional period not to exceed forty-five (45) days.
  - c. If the Tribal Court finds that there is insufficient evidence to support the petition for detention, then the Court shall immediately release the respondent detained.
  - d. A person detained under this Section may be released prior to the expiration of the court-ordered detention if the Public Health Administrator or the Tribal Court finds that less restrictive measures are sufficient to protect the public health. The Tribal Court may impose such conditions on the release of the person as the court finds necessary to protect the public health. A person detained under this Article may also petition the court for release based upon new evidence or a change in circumstances.
  - e. The Tribal Court may extend a period of court-ordered detention for additional periods not to exceed one hundred-eighty (180) days each following a hearing, if the court finds that the requirements of this subsection have been met and if the court finds that further detention is necessary to assure that appropriate treatment is implemented, and that imposition of less restrictive measures are not sufficient to protect the public health. As an alternative to extending the period of detention, if the court finds after hearing that further measures less restrictive than detention are necessary to assure that appropriate treatment is continued, and that imposition of less restrictive measures will be sufficient to protect the public health, the court may enter an order setting forth the measures and ordering the respondent to comply.
9. In the event that a person has been released from detention prior to completion of the prescribed course of treatment and fails to comply with the prescribed course of treatment, the Public Health Administrator, with the assistance of law enforcement, may detain that person, and the Tribal Court may order the person detained for an additional period or periods, not to exceed one hundred-eighty (180) days each, as the court finds necessary to protect the public health. Court orders entered under this Section shall be entered only after a hearing at which the respondent is accorded the same rights as at the initial hearing on the petition for detention.
10. When a Court order for detention is issued, the transporting law enforcement officer and the receiving facility shall be informed of the infectious status of the person for disease control and the protection of the health of the staff, other offenders and the public. Such information shall be made available prior to the transport.
- a. Whenever disclosure is made pursuant to this subsection, it shall be accompanied by a statement in writing which includes the following or substantially similar language:  
"This information has been disclosed to you from records whose confidentiality is protected by tribal law. Tribal law prohibits you from making any further disclosure of it except as authorized by Tribal law."
  - b. Winnebago Law Enforcement shall establish and implement policies and procedures that maintain confidentiality related to the detained person's medical information as defined in this subsection and applicable federal and state law.
11. Service on Respondent. The Public Health Administrator or designee shall serve a copy of the emergency detention order on the individual named at the time of the detention. The Public Health Administrator shall serve copies of the Tribal Court Order of involuntary detention for

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purposes of isolation or quarantine as soon as possible after issuance. If the person informs the Public Health Administrator that he or she is represented by legal counsel, service on such counsel shall be made by delivering a copy of the order to the attorney's office.

### **7-2006 Enforcement.**

1. Refusal to Obey Public Health Administrator Order.
  - a. Persons subject to isolation or quarantine for the protection of the public health shall obey the Public Health Administrator's rules and directives and shall not go beyond the isolation or quarantine premises.
  - b. Any person who, after service upon him or her, violates or fails to comply with the terms of an Emergency Detention Order issued by the Winnebago Tribal Court pursuant to this Article, is guilty of a Class Two criminal offense as set forth in Winnebago Tribal Code Title 1, Rule 1B and subject to any of the penalties afforded a Class Two criminal offense.
  - c. Upon conviction thereof, in addition to any and all other penalties which may be imposed by law upon such conviction, the person convicted may be ordered by the court to confinement until such order of Public Health Administrator and Tribal Court shall have been fully complied with or terminated by such Public Health Administrator and Tribal Court, but not exceeding six months from the date of passing judgment upon such conviction.

### **7-2007 Sovereign Immunity.**

Nothing in this Article shall be deemed, construed, interpreted or implied to have waived, or authorized the waiver of, the sovereign immunity of the Winnebago Tribe or any of its entities, enterprises, instrumentalities, agencies, organizations, departments, tribally owned corporations, or political subdivisions, officers, agents, or employees unless such waiver is explicitly granted in writing by the Tribal Council.

### **7-2008 Severability.**

If any paragraph, section, or provision of this Article shall be declared invalid by a court of competent jurisdiction for any reason, that paragraph, section, or provision shall be severed from the remainder of this Article and the validity of the remainder of this Article shall not be affected by such decision.

### **7-2009 Effective Date.**

This Article shall take effect immediately after its adoption by the Winnebago Tribe of Nebraska Tribal Council in a duly enacted resolution.





# MEMO

**DATE: December 21, 2021**

**TO: All WCHS Employees**

**FROM: Finance Department**

**SUBJECT: Mileage Rate Starting January 1, 2022**

Beginning on January 1, 2022, mileage rate will change. The rate will increase in 2022 to .585. We will still use .56 until December 31, 2021. Our Office Associate Lindsey Engel will send out the new expense sheet and travel request with the new mileage rate in January.

Thank you,

Finance Department