

HANNAHVILLE INDIAN COMMUNITY
BLIGHT ORDINANCE

4.9.100	TITLE.....	2
4.9.101	INTENT AND PURPOSE.....	2
4.9.102	SCOPE AND APPLICABILITY.....	2
4.9.103	DEFINITIONS.....	2
4.9.104	PUBLIC NUISANCE CONDITIONS.....	3
4.9.105	ADMINISTRATION.....	3
4.9.106	INVESTIGATION AND RESPONSE TO PUBLIC NUISANCE COMP.....	4
4.9.107	DEPARTMENT ABATES PUBLIC NUISANCE.....	5
4.9.108	RECOVERY OF COSTS.....	5
4.9.109	APPEALS.....	5
4.9.110	DISCLAIMER OF LIABILITY.....	5
4.9.111	PENALTIES.....	6

**HANNAHVILLE INDIAN COMMUNITY
GENERAL CIVIL CODE-BLIGHT ORDINANCE OF THE HANNAHVILLE INDIAN
COMMUNITY
TITLE 4, CHAPTER 9**

4.9.100 Title

This Code shall be known as the “Blight Ordinance of the Hannahville Indian Community.”

4.9.101 Intent and Purpose

This Ordinance is enacted to ensure the scenic beauty of the Hannahville Indian Community (the HIC), and to protect the health, safety, and general welfare of the people of the Hannahville Indian Community.

The principal objectives of this Ordinance are:

- (1) To enhance the scenic beauty of the HIC.
- (2) To prevent injury and illness to occupants of property and the public and to remove public nuisances.
- (3) To provide standards for the abatement of public nuisances and to ensure proper actions are taken to abate public nuisances.
- (4) To establish responsibility of involved parties and assure that people are not unnecessarily exposed to the dangers of public nuisances.

4.9.102 Scope and Applicability

This Ordinance shall apply to all areas of HIC tribal lands.

4.9.103 Definitions

- (1) “Abatement” means the proper removal and/or containment of substances or materials hazardous to humans and/or the environment. Abatement is part of remediation.
- (2) “Housing Board” means the currently elected members of the Hannahville Housing Board and may be referred to as “the Housing Board.”
- (3) “Building” means any structure having a roof supported by enclosed walls and intended for shelter, housing or enclosure of persons, animals or chattels.
- (4) “Junk” means litter, debris, waste materials of any kind, dead animals, used or unserviceable automobile and machinery parts, used and non-functional furniture and appliances, and used and non-functional tools, equipment, and implements, but shall not include compost piles for normal, personal or non-commercial use, in their proper location.
- (5) “Occupant” means any person who occupies real property, whether with or without any right, title or interest in the property, and any person in possession or charge of such property, in the event the owner resides or is located elsewhere.

- (6) “Owner” means any person, persons, organization, or corporation that owns, in whole or in part, the structure, or other property or is the purchaser of the property under contract for deed.
- (7) “Public nuisance” means any activity or failure to act that adversely affects the public and shall include, but is not limited to, any condition which poses an immediate and direct hazard to human health if left unremediated due to the existence of the condition itself or due to the immediate threat of transmission of disease through insects, animals, or other means of transmission or infections. Any violation of this Ordinance may be deemed a public nuisance.
- (8) “Real property, real estate, and land” means not only the land itself, but also buildings, structures, improvements, and permanent fixtures on the land, and all rights and privileges belonging or in any way appertaining to the property.

4.9.104 Public Nuisance Conditions

The following enumerated and described conditions, or any combination thereof, are hereby found, deemed, and declared to constitute a detriment, danger and hazard to the health, safety and general welfare of the inhabitants of the HIC and are found, deemed and declared to be public nuisances wherever the conditions may exist and the creation, maintenance or failure to abate any nuisances is hereby declared unlawful:

- (1) Any accumulation of trash and/or garbage which is the result of the absence of trash or garbage containers, or overflowing or improperly closed trash or garbage containers.
- (2) Any accumulation of garbage, rubbish, trash, deceased farm animals or junk causing or threatening to cause a fire hazard, or causing or threatening to cause the accumulation of stagnant water, or causing or threatening to cause the inhabitation therein of rats, mice, snakes, mosquitoes, or vermin detrimental to the public health.
- (3) The open storage of any discarded freezer, furniture, refrigerator, stoves, glass, building materials, building rubbish or similar items.
- (4) Any building or other structure which has been burned, partially burned or otherwise partially destroyed and which is unsightly or hazardous to the safety of any person, is a continuing fire hazard or which is structurally unsound to the extent that the Department can reasonably determine that there is a likelihood of personal or property injury.

4.9.105 Administration

Except where otherwise specified, this Ordinance is subject to all provisions of the HIC Evictions Code.

It shall be the duty of the Housing Department or its designee to determine whether or not a public nuisance exists.

Modifications to or dismissal of the public nuisance declaration.

- (1) The Housing Department may modify conditions of the declaration or dismiss the declaration of a public nuisance.
- (2) Such modifications or dismissal shall occur only after the Department has confirmed that the violation no longer exists.
- (3) The Department will base its criteria for determining levels of contamination on the best health and safety information available at the time of the remediation and cannot be held liable for future discoveries.
- (4) For good cause shown, the owner or occupant may request authorization from the Department for an extension of time to complete abatement activities. The Department may grant such extension if the extension does not increase the risk to public or safety and is deemed appropriate by the Department. An extension will be no longer than 30 days and must show substantial improvement or the completion of that deadline will result in penalty.

No person shall in any way interfere with or hinder the Department in the performance of duties, or refuse the Department access to gather information necessary to ascertain compliance with this Ordinance.

4.9.106 Investigation and Response to a Public Nuisance Complaint

- (1) Form of Complaint. Public nuisances complaints may be submitted by any tribal member to the Housing Director for determination. The Housing Director may also file complaints in its own capacity without a public complaint being filed.
- (2) Owner Notification. Upon declaration of a public nuisance, the Department shall give written notice of its determination and orders to abate the nuisance to the owner, occupant and property agent, if applicable. This notice shall be served in person, by certified mail, or by an officer authorized to serve a warrant and contain the following:
 - (a) Property location by street address, parcel identification number, or other property description.
 - (b) Information identifying the nature of the public nuisance at the property.
 - (c) A summary of the owner's and occupant's responsibilities under this Ordinance.
 - (d) Specific orders for abatement or remediation of the public nuisance.
 - (e) A date for completion of the abatement not to exceed thirty days following the receipt of the notice unless a shorter time is required due to the Department's further determination that the immediate abatement is necessary to protect public health and safety. In such cases, the reason for a shortened abatement period shall be specified.
 - (f) Information regarding a right of appeal as provided in Article 9 of this Ordinance.

- (3) Unknown or absent property owner. In the event the owner of the property is unknown or absent and has no known representative upon whom the notice can be served, the Department shall post a written or printed notice on the property stating that, unless the threat to the public is abated or removed within thirty days, the Department will have the public nuisance abated or removed at the expense of the owner.
- (4) Warning sign. The Department shall post a warning sign when deemed necessary to further protect the public and safety.

4.9.107 Department Abates Public Nuisance

If the owner, property agent or occupant, fails or neglects to comply with the requirements in the notice provided under Article 6 of this Ordinance, then the Department shall abate or remediate the public nuisance described in the notice. The Department will recoup such costs as necessary to abate the public nuisance.

4.9.108 Recovery of Costs

If the Department is required to remove, abate or remediate a public nuisance, the Department shall make every reasonable effort to recover costs incurred in removal, abatement or remediation. The cost of enforcement action under this Ordinance may be assessed and charged against the tribal member on which the public nuisance was located.

Costs incurred include any costs of notification of owner(s) including certified mail costs.

4.9.109 Appeals

- (1) Right of Appeal. When a public nuisance is declared by the Department, an owner and/or an occupant of the affected property may appeal the declaration, including an order for abatement or remediation from the Department, by filing a written request with the Housing Board within 14 days of receiving notice.
- (2) Notice of Decision. The decision of the Housing Board shall be issued no later than the next regularly scheduled regular meeting following the hearing of the appeal. The appeal to the Housing Board may only be reviewed by the Tribal Court. Homeowners may only petition the Tribal Court for review upon exhaustion of all the before listed administrative remedies.

4.9.110 Disclaimer of Liability

There shall be no liability on the part of, or a cause of action against, the HIC or any officer, employee or agent thereof for any damages that may result from administration and enforcement of this Ordinance.

4.9.111 Penalties

- (1) Civil Remedies. In the event of a violation or threat of violation of this Ordinance, the Housing Department Director may take appropriate action to enforce this Ordinance, including application for injunctive relief, action to compel performance, or other appropriate action in Tribal Court, if necessary, to prevent, restrain, correct, or abate such violations or threatened violations.
- (2) Citations. Whenever the Department discovers a violation of this Ordinance, the Department in addition to all available civil remedies may issue a fine to the person charged with the violation in an amount of twenty-five dollars (\$25) for a first violation, fifty dollars (\$50) for a second violation, and one hundred dollars (\$100) per violation thereafter.

The number of violations assigned to the person for purposes of the calculation above shall rollover (go to zero violations) if three hundred and sixty-five (365) days have elapsed since the last violation and the person is current on the payment of their prior fines under this Article.

This Ordinance was adopted on April 12, 2021, by the Tribal Council pursuant to Resolution #04122021-A.