

**TITLE 8 – REGULATORY CODE  
PART IV- PROPERTY  
CHAPTER 4-4- PUBLIC PARKS**

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**SUBCHAPTER A GENERAL PROVISIONS**

**Section 10 Purpose (8 PYTC § 4-4-10)**

The purpose of this Chapter is to preserve the Tribe’s public parks and to protect the health and welfare of the Tribe’s members.

**Section 20 Short Title; Codification (8 PYTC § 4-4-20)**

This ordinance shall be known as the “Pascua Yaqui Public Parks Ordinance.”

**Section 30 Definitions (3 PYTC § 4-4-30)**

- (A) “Alcohol” means a colorless volatile flammable liquid that is produced by the natural fermentation of sugars and is the intoxicating constituent of wine, beer, spirits, and other drinks.
- (B) “Animal” means any vertebrate member of the animal kingdom other than humans.
- (C) “Commercial Sales Activity” means the displaying for sale, selling, vending, peddling (including advertising), or transfer of possession or ownership of an item for a price or for a stated minimum donation. This definition does not include sales occurring in relation to fundraising as defined herein.
- (D) “Controlled Substance” means those substances listed in the schedules of the Controlled Substances Act of 1970 (21 U.S.C. §§ 810 *et seq.*).
- (E) “Drug Paraphernalia” means any equipment, product, or material of any kind which is primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance (21 U.S.C. § 863).
- (F) “Enter or Remain Unlawfully” means an act of a person who enters or remains in an area closed to public use when such person’s intent for so entering and remaining is not licensed, authorized or otherwise privileged.
- (G) “Fundraising” means the seeking of financial support for a charity, cause, or other enterprise where such charity, cause, or other enterprise is for the benefit of a school, church or religious society or activity, youth or cultural group, or other cause approved by the Tribe.
- (H) “Knowingly” means, with respect to conduct or to a circumstance described by an ordinance defining an offense, that a person is aware or believes that his or her conduct is of that nature or that the circumstances exist. It does not require any knowledge of the unlawfulness of the act or omission.
- (I) “Park” means any area of land so designated and maintained by the Tribe as a place of beauty or recreation or both. It includes, but is not limited to parks, multi-purpose fields, recreational areas, playgrounds, open space areas, and structures located thereon.
- (J) “Smoke” or “Smoking” means the burning of any tobacco or other plant product.

## **SUBCHAPTER B            RULES APPLYING TO ALL PUBLIC PARKS**

### **Section 40            Entering Park Areas Closed to Public Use**

- (A)    No person shall knowingly enter or remain unlawfully in any park outside of the posted hours of operation.
- (B)    No person shall knowingly enter or remain unlawfully in any park except in those areas designated as open to public use.
- (C)    No person shall camp overnight in any park.
- (D)    No person shall loiter in or about the vicinity of bathhouses or restroom facilities in any park.
- (E)    The provisions of this Section shall not apply to any regularly authorized party acting by and under the authority of the Pascua Yaqui Tribe.

### **Section 50            Vandalism**

- (A)    No person shall deface or damage any public building, facility, structure, equipment or property, either real or personal, within a park.
- (B)    No person shall tamper with or remove any public utilities or parts or appurtenances thereof within a park.
- (C)    No person shall deface, damage, disturb or excavate any historical, prehistorical, archaeological, paleontological, or geological site or feature, or collect specimens from any historical, prehistorical, archaeological, paleontological, or geological site or feature, situated on land within a park.
- (D)    No person shall destroy, dig up, mutilate, collect, cut, harvest or remove any live or dead tree or plant within a park, except that harvesting of materials for cultural and religious purposes is allowed.
- (E)    No person shall dig, remove or excavate any sand, gravel, rock or soil from a park.
- (F)    No person shall make any excavation by tool, equipment, blasting, or other means or agency.
- (G)    No person shall kill, harm, take, molest or disturb any animal, reptile, amphibian or bird within a park, except that fishing in a manner authorized by applicable law is allowed.
- (H)    No person shall injure or impair the natural beauty or usefulness of any area, provided that normal use of grassed areas will not be prohibited.
- (I)    The provisions of this Section shall not apply to any regularly authorized party acting by and under the authority of the Pascua Yaqui Tribe.

### **Section 60            Alcohol and Drugs**

- (A)    No person shall possess or consume alcohol in a park, except as expressly authorized by the Pascua Yaqui Tribe.
- (B)    No person shall possess or use a controlled substance in a park, except as authorized by a valid physician's prescription.
- (C)    No person shall possess any drug paraphernalia in a park.

**Section 70      Glass Containers**

No person shall throw, toss or otherwise propel or either willfully and maliciously or carelessly and negligently break any glass object in a park.

**Section 80      Prohibition of Commercial Sales Activities**

- (A) No person in a park shall expose or offer for sale any article or thing, nor shall they place any stand, cart or vehicle for the transportation, sale or display of any such article or thing.
- (B) No person in a park shall announce, advertise, or call the public attention in any way to any article or service for sale or hire.
- (C) No person in a park shall paste, glue, tack or otherwise post any sign, placard, advertisement, or inscription whatever, nor shall any person erect or cause to be erected any sign whatever on any public lands or highways or roads adjacent to a park.
- (D) The provisions of this Section do not apply to vendors who are operating under a valid Pascua Yaqui Business License and with the approval of the Pascua Yaqui Tribe, except that the Facilities Department may specify the time, place, and manner of any commercial sales activities.

**Section 90      Emergency Park Closure**

- (A) The Pascua Yaqui Tribe, Facilities Department Director, and Chief of Police shall be authorized to direct that a park, playground or recreational area be closed for a period not to exceed seven (7) days to all persons not authorized to be therein, when an emergency situation exists which requires for the protection of the public health or safety that the premises be closed.
- (B) Should an emergency situation exceed seven (7) days, the Pascua Yaqui Tribe may authorize an extension of the park closure.
- (C) Nothing herein prevents the Pascua Yaqui Tribe or the Facilities Department Director from closing any facility in a park at any time and for any interval of time, or from designating different opening and closing hours of such facility from the opening and closing hours of the park in which the facility is located.

**Section 100      Restrictions on Smoking and Fires**

- (A) No person shall smoke or start a fire in a park where one or more signs are posted prohibiting such activity.
- (B) The Pascua Yaqui Tribe, Facilities Department Director, and Fire Department Chief shall be authorized to post signs prohibiting smoking and fires in parks when there is a risk of fire becoming uncontrolled due to dry vegetation or climatic conditions.
- (C) No fires shall be allowed in other than provided fire pits or approved outdoor cooking equipment used in designated areas.
- (D) No person in a park shall leave a picnic area before the fire is completely extinguished.
- (E) No person shall drop or place and suffer to remain a lighted match, cigarette, cigar or other burning substance.

**Section 110 Prohibition of Wheeled Devices**

- (A) No person shall operate a skateboard, conventional or in-line roller skates, bicycle, wagon, or other wheeled vehicle or device in a park where one or more signs are posted prohibiting such activity, or in a manner which causes injury to any person or damage to public or private property.
- (B) The provisions of this Section shall not apply to wheelchairs and baby carriages or like devices, except that said devices shall not be operated in a manner which cause injury to any person or knowingly operated in a manner to cause injury to public or private property.
- (C) A bicyclist shall be permitted to wheel or push a bicycle by hand over any grassy area or paved area reserved for pedestrian use.

**Section 120 Firearms and Weapons**

- (A) No person in a park shall carry or possess firearms of any description, or air rifles, spring guns, bows and arrows, slings, or any instrument that can be loaded with and fire blanks, cartridges, or any kind of trapping device.
- (B) No person shall display or use a weapon of any kind in a park.
- (C) Shooting into park areas and beyond park boundaries is prohibited.
- (D) The provisions of this Section do not apply to duly authorized Law Enforcement personnel in the performance of their duties, or to cultural activities or competitions authorized by the Tribe.

**Section 130 Horses, Mules and Other Pack Animals**

- (A) No person shall bring a horse, mule or other pack animal into a park except on designated bridle trails or paths, equestrian areas, or other areas designated by the Pascua Yaqui Tribe.
- (B) Horses, mules or other pack animals permitted in designated areas shall be properly restrained, under control and ridden in a safe manner.
- (C) No horses, mules or other pack animals shall be allowed to graze or go unattended, nor shall they be hitched to any fixed object other than a designated hitching rail.

**Section 140 Littering**

- (A) No person in a park shall drop, place, or dump and suffer to remain, except in a receptacle provided for the purpose, any bottles, cans, papers, ashes, boxes, food, garbage or other waste, or other thing, including cigarette butts.
- (B) If no receptacles are provided, or if the receptacles are full, all such materials shall be removed from the park by the person responsible for such materials.
- (C) No person in a park shall throw, discharge or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream or other body of water in or adjacent to any park or any tributary, stream, storm sewer, or drain flowing into such waters, any substances, matter or thing, liquid or solid, which will or may result in the pollution of said waters.

**Section 150 Hunting**

- (A). No person shall hunt, molest, harm, frighten, tease, shoot or throw missiles at any animal in a park.

- (B). No person shall set any trap or snare in a park, or disturb any nest.
- (C). No person shall remove or have in their possession the young of any wild animals, or the eggs or nest of any animal.

**Section 160 Dangerous Activities**

- (A) No person in a park shall engage in activities that involve thrown or otherwise propelled objects such as hard balls, stones, arrows, javelins, model airplanes, or other objects likely to inflict injury to persons or property, except in those areas set apart for such forms of recreation.
- (B) The provisions of this Section do not apply to cultural activities or competitions authorized by the Tribe.

**Section 170 Animals**

- (A). No animals other than domesticated pets shall be allowed in parks.
- (B). No person shall bring a domesticated pet into a park where one or more signs prohibiting such activity are posted.
- (C). All domesticated pets must be under restraint of leash or otherwise under the control of and responsive to the command of their owners or keepers.
- (D). No animal shall be allowed which is annoying the public or other animals, or which is causing physical damage.
- (E). All feces shall be picked up by the pet's owner or keeper and removed from the park and/or adjacent property.

**Section 180 Profanity; Obscenity; Other Offenses**

- (A) No person in a park shall abuse or annoy another.
- (B) No person in a park shall utter profane, threatening, abusive, obscene, or indecent language or loud outcry.
- (C) No person in a park shall do any obscene or indecent act.
- (D) No person in a park shall be under the influence of alcohol, or impaired by illegal drugs.
- (E) No person in a park shall play any game of chance or have possession of any instrument of gambling.
- (F) No person in a park shall play music at such a volume as to disturb the public.

**Section 190 Fireworks**

No fireworks shall be allowed in a park except for licensed displays.

**SUBCHAPTER C RULES APPLYING TO MOTOR VEHICLES IN A PUBLIC PARK**

**Section 200 Operation and Parking of Vehicles**

- (A) No person shall drive any vehicle within a park except upon designated roads, drives or parking areas.

- (B) No person shall park or stand a vehicle in a park except within a designated space in a designated parking area.
- (C) No person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the shoulder or berm of any road or drive within a park except in case of a medical emergency or unless the vehicle is disabled.
- (D) No person shall park or stand a vehicle in a parking area of a park during times that the park is not open to the public unless authorized to do so by the Facilities Department Director.
- (E) No person in a park shall fail to comply with the Pascua Yaqui Traffic Code (8 PYTC § 6-4-10 *et seq.*).
- (F) No person shall drive in a park in excess of five (5) miles per hour, except where specifically designated.
- (G) The provisions of this Section shall not apply to Facilities Department or Law Enforcement personnel in the performance of their duties, to persons performing work as authorized by the Pascua Yaqui Tribe, or to persons engaging in authorized commercial sales activity so long as such driving, parking and standing is in accordance with such authorization.

## **SUBCHAPTER D VIOLATIONS**

### **Section 210 Order to Leave Park; Unlawful Failure to Comply**

- (A) The Facilities Department Director or designee and Law Enforcement personnel may order any person who has violated any park rule, regulation or stipulation of usage or any other applicable law to immediately leave the park in which the violation occurred. No person may remain in a park or return to such park on the same day after such person has been ordered to leave the park.
- (B) Failure to comply with an order to leave a park shall carry a civil penalty not to exceed \$500.00.

### **Section 220 Failure to Obey Law Enforcement**

- (A) No person in any park shall fail to comply with any reasonable direction given by any law enforcement officer.
- (B) Failure to comply with law enforcement directions shall carry a civil penalty not to exceed \$500.00.

### **Section 230 Failure to Comply with Rules Applying to all Public Park**

- (A) No person in any park shall fail to comply with any rule applying to all public parks as set forth in Subchapter B of this Chapter and/or as designated on posted signage in the park.
- (B) Failure to comply with any rule applying to all public parks shall carry a civil penalty not to exceed \$500.00.

### **Section 240 Failure to Comply with Rules Applying to Motor Vehicles in a Public Park**

- (A) No person in any park shall fail to comply with any rule applying to motor vehicles in a public park as set forth in Subchapter C of this Chapter and/or as designated on posted signage in the park.
- (B) Failure to comply with any rule applying to motor vehicles in a public park shall carry a civil penalty not to exceed \$500.00.

**Section 250 Criminal Prosecution**

- (A) In addition to any civil penalty imposed by this Chapter, actions in violation of this Chapter may be criminally prosecuted as set forth in the Pascua Yaqui Criminal Code (4 PYTC). Criminal charges shall be based on the specific acts alleged, regardless of the heading under which such acts appear in this Chapter.
- (B) Any action in violation of this Chapter not otherwise contained in the Pascua Yaqui Criminal Code shall constitute a Class 2 misdemeanor, except that any such action resulting in physical harm to a person or animal shall constitute a Class 1 misdemeanor.

**SUBCHAPTER E ENFORCEMENT**

**Section 260 Authorization to Enforce**

- (A) Except where otherwise provided, the Pascua Yaqui Police Department is charged with the enforcement of this Chapter. Any person authorized to enforce this Chapter shall issue a notice of violation:
  - (1) When a violation of this ordinance occurs in the enforcement authority's presence; or
  - (2) When the enforcement authority investigating a report of a violation of this ordinance finds probable cause to believe that a violation has occurred.

**Section 270 Notice of Violation**

- (A) Written notice shall be given to anyone who violates this Chapter. The notice of violation shall:
  - (1) Specify the nature of the violation, the location of the violation, the date and time of the violation (or the date and time when the violation was discovered), and the section(s) of this Chapter that were violated;
  - (2) Set a date for hearing before the Pascua Yaqui Tribal Court, which shall be no sooner than ten (10) days after service of the notice;
  - (3) Specify the amount of the fine, if any, which may be paid by the violator to the Court in order to avoid a hearing;
  - (4) Notify the violator that if the violator does not pay the amount of the fine and does not appear before the Tribal Court on the date set for hearing, the court may declare the defendant to be in default and award any appropriate relief as provided in this Chapter.

**Section 280 Service of Notice**

- (A) The notice of violation shall be served upon the defendant in the following manner:
  - (1) By delivering a copy personally to the defendant or the defendant's authorized representative.
  - (2) If, after reasonable effort is made, the defendant cannot be personally served, service may be made by sending a copy of the notice to the defendant's last known address by certified mail, return receipt requested, and sending an additional copy by regular mail.
- (B) A certificate of service filed with the Pascua Yaqui Tribal Court shall constitute proof of service of the notice of violation. If service is made by certified mail, the certificate must describe the efforts that were made to personally serve the defendant.



**Section 290 Procedure**

- (A) The Pascua Yaqui Tribal Court shall have jurisdiction over violations of this Chapter.
- (B) If the Court finds by a preponderance of the evidence that a violation of this Chapter has been committed, it shall require the violator to pay a civil penalty in an amount not to exceed the maximum penalty allowed for the infraction.
- (C) Upon a showing of financial hardship, the Court may sentence a violator to perform community service hours in lieu of payment of a civil penalty. Each hour of community service shall reduce the civil penalty by the amount of federal minimum wage in effect at the time of sentencing. Adequate supervision must be available before community service hours are imposed.
- (D) In addition to any civil penalty imposed, the Court shall order a violator to make monetary restitution for all property damage resulting from any violation of this Chapter. Restitution shall be made through the Tribal Court and shall be made payable to the Pascua Yaqui Tribe, or to the otherwise designated owner of the damaged property. Community service shall not be allowed in lieu of restitution.”