

TITLE 26. M.P.T.L. TRIBAL FOOD LAW

CHAPTER 1.

26 M.P.T.L. ch. 1 § 1

Section 1. Adoption of United States Food and Drug Administration Model Food Code

The United States Food and Drug Administration Model Food Code as adopted by the Mashantucket Pequot Tribal government on April 25, 2003 is the Tribal Food Code and the provisions thereof are hereby incorporated as regulations of the Mashantucket Pequot Tribal Nation to be enforced by the Mashantucket Food Safety and Sanitation Manager (hereinafter "Inspector") or any subsequent office assuming the duties of that position.

26 M.P.T.L. ch. 1 § 2

Section 2. Applicability of this Law

This Law shall be applicable to all individuals or entities purchasing, preparing, or delivering food items as described in the Code for sale to patrons, employees, or others including but not limited to all foods consumed at any Gaming Enterprise location whether owned and operated by the Tribe or otherwise, the Museum, all employee locations, and at all other locations other than private homes located on the Reservation.

26 M.P.T.L. ch. 1 § 3

Section 3. Compliance with Tribal Food Code

All individuals or entities conducting business on the Reservation shall comply with the provisions of the Code and permit free and open access to their facilities and records so as to enable the Inspector to carry out the provisions of this law.

26 M.P.T.L. ch. 1 § 4

Section 4. Enforcement of Procedure of Tribal Food Code

In the event the Inspector becomes aware of conditions which are or may be a violation of the Food Code the Inspector may in the discretion of the Inspector issue verbal warnings or orders or written warnings or orders. In the event the recipient of such warnings or orders does not take action to comply with the Food Code the Inspector may take other proposed written action including but not limited to the imposition of fines not to exceed \$500 for each offense, cease and desist orders or, in the event no other measure shall be reasonably effective, an order

to cease the food operation as necessary to prevent continued violations of the Code.

26 M.P.T.L. ch. 1 § 5

Section 5. Administrative Appeal Provision

Any recipient of a proposed fine or order shall have 10 days from the receipt of such written order to respond to same in writing. The inspector shall confer with the recipient taking into consideration the recipient's response. If the inspector is satisfied with the response the inspector shall issue a written order reflecting the resolution of the issue. If the Inspector is not satisfied with the response, the inspector shall notify the other party in writing that the proposed order and/or fine as amended or otherwise shall remain in effect.

26 M.P.T.L. ch. 1 § 6

Section 6. Appeal

- a. The appeal described herein shall be the recipients exclusive cause of action against the Tribe and, the recipient must first exhaust the administrative remedies described herein.
- b. The recipient shall then have 20 days from the receipt of such notice of final action to seek a review of same by the Tribal Court.
- c. Such review shall be instituted in the same manner that an employment appeal is instituted under Rule 3 of the Mashantucket Pequot Rules of Court.
- d. Within 30 days of filing of the appeal the inspector or the inspector's designee shall certify the record of the proceedings to the Tribal Court which will include any and all reports, communications, letters, and orders relating to the issue in question.
- e. The Court shall consider the record as well as any evidence presented.
- f. The court shall either confirm, reverse, or modify the order. The court shall take into consideration whether the order or fine appealed from was arbitrary or capricious, whether there was a reasonable basis for finding the violation or the need for such order or, whether such action constituted an abuse of discretion on the part of the inspector.

26 M.P.T.L. ch. 1 § 7

Section 7. Injunctive Relief

In addition to the above actions the Inspector may initiate an action in the Tribal Court as to the individual and/or entities allegedly in violation or potential violation of the Code and such action may include a request for a temporary or permanent injunction as to such activities. When such application to the court alleges an imminent health or safety threat to consumers the court shall expedite the proceedings to the extent reasonably possible. The court may issue orders as to scheduling, filing, and other matters as necessary to protect the public health and welfare. An action brought under this section, if brought against the Gaming Enterprise, shall be served upon the CEO of the Gaming Enterprise and/or in the absence of the CEO the officer in charge and, if against other individuals, served in hand to such individual or at the individual's place of employment on the reservation, and if against an entity other than the Gaming Enterprise it shall be served upon the person in charge of such entity on the premises at the time of such service.

26 M.P.T.L. ch. 1 § 8

Section 8. Waiver of Sovereign Immunity

The Mashantucket Pequot Tribal Nation hereby expressly waives its sovereign immunity and the sovereign immunity of the Gaming Enterprise for the limited purpose of suit in the Tribal Court only for the actions described herein either appealing from the actions of the inspector or for actions brought by the inspector seeking relief described above.

26 M.P.T.L. ch. 1 § 9

Section 9. Appeal of Tribal Court Decision

Any final decision by the Tribal Court may be appealed to the Mashantucket Pequot Court of Appeals. The decision of the Court of Appeals shall be final.

26 M.P.T.L. ch. 1 § 10

Section 10. Effective Date

This law shall apply to any activities occurring on or after April 25, 2003.