



PUEBLO OF POJOAQUE

LAW AND ORDER CODE

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Introduction

The Pueblo of Pojoaque Tribal Council is responsible for passing Resolutions, setting policy, and making decisions on behalf of the Pueblo. The Pueblo of Pojoaque Law and Order Code in its entirety was originally approved by the Tribal Council on or around March 1, 1983 and re-codified on December 19, 2013. Subsequent to its original enactment, the Tribal Council has amended or changed various sections of the Code through the passage of Resolutions.

This version of the Pueblo of Pojoaque Law and Order Code incorporates additions, amendments, and revisions of the Pueblo's laws as of March 6, 2014. The Pueblo of Pojoaque Legal Department maintains the official version of the Law and Order Code. Individuals should contact the Legal Department concerning ordinances and Resolutions passed subsequent to the date cited above.

Subpart A Title, Purpose and Definitions

A-1 Title & Citation

(a) Title. These various Subparts and Sections contained herein are organized into a comprehensive set of laws and shall be known as the “Pueblo of Pojoaque Law and Order Code.”

(b) Organization. The Pueblo of Pojoaque Law and Order Code shall be organized in groups of resolutions, codes, acts or ordinances and/or governing documents with similar subject matter. Each subject matter grouping shall be designated as a Subpart and identified by an alphanumeric designation and caption (e.g., Subpart A Title, Purpose and Definitions). Each resolution, code, act or ordinance shall be given a Section number (e.g., “A-1 Title & Citation”).

(c) Citation. Citation to this Code shall be by letters “PPLOC” followed by the appropriate Subpart, Section and Subsection in parenthesis (e.g., “PPLOC Subpart A” or “PPLOC A-1(c)”). Whenever a reference is made to the Pueblo of Pojoaque Law and Order Code, or to any governing document of the Pueblo codified herein, the reference shall apply to all amendments now and hereinafter made.

A-2 Purpose

(a) It is the purpose of this Law and Order Code to strengthen Tribal self-government, provide for the judicial needs of the Pueblo, and ensure maintenance of the law and order within the exterior boundaries of the Pueblo of Pojoaque.

(b) This Code shall supersede all governing documents inconsistent herewith and applicable prior to the approval of this Code.

(c) All Law and Order Code revisions or amendments made since 1983 require or have required Tribal Council approval. After such approval, these revisions or amendments shall become part of the Law and Order Code. No revisions or amendments shall require further approvals.

(d) The laws in the Code shall be enforced by the Pueblo of Pojoaque.

A-3 Definitions

In this Code, unless the context otherwise requires:

(a) “Adult” shall mean a person who is eighteen (18) years of age or older.

(b) “Code” and “Law and Order Code” shall mean the Pueblo of Pojoaque Law and Order Code.

(c) “Governor” shall mean the Governor of the Pueblo of Pojoaque.

(d) “Indian” shall mean any person who is a member of any Indian tribe recognized by Federal or state jurisdiction, or who is an Alaska Native and member of a Regional Corporation as defined in 1606 of title 43, United States Code.

(e) “Indian child” means any unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

(f) “Juvenile Court” shall mean the judge(s) of the Tribal Court specifically convened to preside over proceedings involving a juvenile person.

(g) “Non-Indian” shall mean a person who is not an Indian.

(h) “Person” shall mean a natural person, a corporation or unincorporated Indian association, except as defined under Subpart M.

(i) “Property” shall mean both real and personal property.

(j) “Pueblo” shall mean the Pueblo of Pojoaque.

(k) “Pueblo Courts” shall mean the Tribal Court and Court of Appeals for the Pueblo of Pojoaque.

(l) “Tribal Council” or “Council” shall mean the regular Tribal Council of the Pueblo of Pojoaque which is responsible for passing resolutions, setting policy and making decisions between meetings of the General Council, unless otherwise specifically stated otherwise.

(m) “Tribal Court” shall mean the trial court for the Pueblo of Pojoaque, composed according to Subpart D.

(n) “Tribal Member”, “Enrolled Member” or “Member” shall mean an enrolled member of the Pueblo of Pojoaque, unless otherwise specifically indicated.

(o) “Tribal Official” shall mean a duly elected leader of the Pueblo holding office at the time of the occurrence.

(p) “Tribal Police” shall mean the Pueblo of Pojoaque Tribal Police Department.

A-4 Pueblo of Pojoaque Legal Name

(a) The legal name of the Pueblo is “Pueblo of Pojoaque” not “Pojoaque Pueblo.”

(b) All Pueblo of Pojoaque entities and enterprises shall use only the legal name of the Pueblo in all circumstances and the name Pojoaque Pueblo shall be changed to Pueblo of Pojoaque on all signs and stationery as soon as possible.

Subpart B Judicial Power and the Courts

B-1 Jurisdiction

The Pueblo of Pojoaque has jurisdiction over its Members and within the exterior boundaries of the Pueblo, subject to some exceptions. Jurisdictional rules are set forth in greater detail in Subpart C.

B-2 Judicial Power

(a) The judicial powers of the Pueblo of Pojoaque shall be vested in an Appeals Court and a Tribal Court and shall extend to all cases and controversies in law and equity arising under and authorized by the duly enacted laws of the Pueblo of Pojoaque Tribal Council.

(b) The Court of Appeals and the Tribal Court shall have, but are not limited to the following powers:

1. To punish for contempt any of its officers or other persons present at judicial proceedings.
2. To compel witnesses to attend and testify and produce documents or other tangible objects to be used as evidence, provided that a defendant in a criminal trial may not be compelled to be a witness against himself.

B-3 The Tribal Court

(a) Composition. The Tribal Court shall be referred to as the Tribal Court, and shall consist of a Chief Judge appointed by the Tribal Council, whose duties shall be full time and one or more Associate Judges may be called to serve when the occasion arises. The Associate Judges may be hired on contract and compensated on a per diem basis.

(b) Court Sessions. Regular sessions of the Tribal Court shall be held on work days at times and places designated by the Chief Judge.

(c) Qualification of Judges. Any person over the age of twenty-one (21) years old shall be eligible to serve as Judge of the Pueblo of Pojoaque Tribal Court. The prospective Judge shall appear before the Tribal Council and submit to a background interview and present their qualifications. If the prospective Judge does not have a law degree, they shall complete a course of training in judicial proceedings within six (6) months after being appointed to the position.

(d) Disqualification of Presiding Judge. No Judge shall hear or determine any case wherein he has an interest or wherein any relative, by marriage or blood in the first or second degree is a party. Any party to a proceeding may raise the issue of the qualification of the Judge to hear the case.

(e) Removal. Any Judge of the Tribal Court may be suspended, dismissed or removed by the Tribal Council for any of the following reasons:

1. Conviction of a felony in any court.
2. Conviction of any offense involving moral turpitude in any court.
3. Conviction of the offense of disorderly conduct.
4. Being under the influence of alcoholic beverages while presiding over Court.
5. Any other conduct unbecoming to a Judge of the Pueblo of Pojoaque Tribal Court.

(f) A Judge shall be given full and fair opportunity to reply to any and all charges for which he or she may be removed from his judicial office.

B-4 The Court of Appeals

(a) Jurisdiction. The Court of Appeals shall have jurisdiction to hear appeals from final orders and final judgments of the Tribal Court.

(b) Composition. The Court of Appeals shall consist of either the Pueblo of Pojoaque Tribal Council with the Governor presiding as Judge or a special appellate court as appointed by the Governor.

(c) Sessions. The Court of Appeals may consider the appeal during a regularly scheduled Tribal Council meeting or at a special appellate court meeting.

(d) Only the Tribal Court Judge may stay a sentence or decision pending the appeal process.

(e) Criminal Appeals. A person convicted of a violation of the Pueblo of Pojoaque Law and Order Code may appeal the conviction to the Court of Appeals by filing a written notice with the Tribal Council Secretary. The written notice must be filed within ten (10) calendar days after the finding of guilt by the Tribal Court.

(f) Civil Appeals. The decision of the Tribal Court or jury may be appealed to the Court of Appeals by filing a written notice with the Tribal Council Secretary. The written notice must be filed within ten (10) calendar days after the final decision.

(g) All written notices of appeal shall include the specific order of the Tribal Court or jury that is appealed. The written notice shall also include the remedy requested.

B-5 Right of Appeal

(a) Any party to a case, other than the prosecution in a criminal case, who is aggrieved by a final order or final judgment of the Tribal Court, shall have the right to appeal to the Court of Appeals.

(b) The appealing party shall file with the Governor of the Pueblo of Pojoaque a notice of appeal, along with a filing fee of one hundred dollars (\$100.00) within ten (10) days after the entry of the final order or final judgment from which appeal is taken. The filing fee may be waived in the appeal of a criminal conviction if the defendant files an affidavit swearing that he is without funds to pay the filing fee. If the Pueblo of Pojoaque Court of Appeals finds that the defendant is without funds to pay the filing fee, it shall order that the fee be permanently waived.

(c) If the Court of Appeals finds that any or a combination of the following has occurred, it shall order the judgment or order reversed or may remand the case for retrial:

1. Irregularities in the proceedings or conduct by the jury, adverse party, or his counsel prejudicial to the appellant;
2. Any ruling, order, or abuse of discretion which may have prevented a fair trial;
3. Newly discovered evidence which could not, with reasonable diligence, have been produced at trial;
4. Insufficient evidence to support the verdict;
5. Any error of law occurring at the trial prejudicial to the appellant; or
6. Any other reason which would warrant reversal by a court when reviewing a similar appeal.

(d) If the Court of Appeals finds that reversal under Paragraph (c) of this section is unwarranted, it shall affirm the judgment or order appealed from; no further appeal shall thereafter be permitted.

Subpart C Jurisdiction of the Tribal Court

C-1 Territorial Jurisdiction of the Tribal Court

Jurisdiction of the Pueblo of Pojoaque Tribal Court shall extend to all territory within the present exterior boundaries of the Pueblo and all roads, water and to any lands which may be added to the Pueblo in the future or which may become subject to the jurisdiction of the Pueblo.

C-2 Personal Jurisdiction

(a) As used in these jurisdictional provisions, the word “person” shall include any individual, firm, company, association, or corporation.

(b) Subject to any contrary provisions, exceptions or limitations contained in either federal law or as expressly stated elsewhere in this Law and Order Code, the Tribal Court shall have jurisdiction over the following persons:

1. Any person residing, located or present within the Pueblo for:
 - A. Any civil cause of action; or
 - B. Any charge of criminal offense prohibited by this code or other ordinance of the Pueblo when the offense is alleged to have occurred within the Pueblo.
2. Any person who transacts, conducts, or performs any business or activity within the Pueblo, either in person or by an agent or representative, for any civil cause of action or charge of criminal offense for any act expressly prohibited by this Law and Order Code or other ordinances adopted by the Tribal Council.
3. Any person who owns, uses or possesses any property within the exterior boundaries of the Pueblo, for any civil cause of action or charge of criminal offense prohibited by this Code of other ordinances of the Tribe arising from such ownership, use or possession.
4. Any person who commits a tortious act or engages in tortious conduct within the exterior boundaries of the Pueblo, either in person or by an agent or representative, for any civil cause of action arising from such act or conduct.
5. Any person who commits a criminal offense prohibited by this code or other ordinance of the Pueblo, by his or her own conduct or the conduct of another for which he is legally accountable, if:
 - A. The conduct occurs either wholly or partly within the Pueblo;
 - B. The conduct which occurs outside the Pueblo constitutes an attempt, solicitation, or conspiracy to commit an offense within the Pueblo, and an act in furtherance of the attempt or conspiracy occurs within the Pueblo; or

C. The conduct which occurs within the Pueblo constitutes an attempt, solicitation, or conspiracy to commit in another jurisdiction an offense prohibited by this Code or ordinances of the Pueblo and such other jurisdiction.

(c) None of the foregoing bases of jurisdiction is exclusive, and jurisdiction over a person may be established upon any one or more of them as applicable.

C-3 Exclusive Original Jurisdiction

(a) The Pueblo Courts shall have exclusive original jurisdiction in all matters in which the Pueblo or its officers or employees are parties in their official capacities.

(b) Nothing contained in Subsection (a) or elsewhere in this Code shall be construed as a waiver of the sovereign immunity of the Pueblo or its officers or enterprises unless specifically denominated as such.

C-4 Actions By or Against Pueblo Officers or Employees

(a) In any action otherwise authorized by or against the Tribe or its officers or employees arising from the performance of their official duties, the following modifications to the rules or procedures set forth in this Law and Order Code shall apply:

1. Neither the Pueblo nor its officers or employees when involved in a civil action arising from the performance of their official duties shall be liable for the payment of the costs or expenses of the opposing party.
2. Neither the Pueblo nor its officers or employees when involved in a civil action arising from the performance of their official duties shall be required to post security by bond or otherwise for any purpose.
3. No civil action brought against the Pueblo or its officers and employees arising from the performance of their official duties shall be tried before a jury. All such actions shall be tried before a Tribal Court Judge.
4. In an action against the Pueblo, service of process may be accomplished by delivering the Petition and the Summons to the offices of the Governor and of the Legal Department during normal business hours.

C-5 Civil Jurisdiction

(a) The Tribal Court shall have jurisdiction over all civil causes of action.

(b) Personal jurisdiction shall exist over all persons who are Indians, or all persons, who consent to the jurisdiction of the Tribal Court. The act of entry upon territory within the jurisdiction of the court shall conclusively be deemed consent to the jurisdiction of the Court with respect to any civil action arising out of such entry.

(c) The act of entry upon territory within the jurisdiction of the court by an off-reservation seller or agent of the seller to deliver goods shall conclusively be deemed consent by the seller to the jurisdiction of the Tribal Court for any dispute arising out of the sales, regardless of where the contract was entered into.

C-6 Criminal Jurisdiction

The Tribal Court shall have criminal jurisdiction over all offenses enumerated in this Code and any subsequent ordinance adopted by the Pueblo when committed within the jurisdiction of the court by any Indian, any other person to the fullest extent allowed by any current or future federal or state law, statute, regulation or case.

C-7 Probate Jurisdiction

The Tribal Court shall have probate jurisdiction over all of the real and personal property located within the jurisdiction of the Court at the time of death of a decedent and the personal property, wherever located, of any member of the Pueblo who is a resident of the Pueblo at the time of death.

C-8 Juvenile Jurisdiction

(a) The Tribal Court shall have original jurisdiction in all proceedings and matters relating to need for supervision, foster care, training, status offenses and other matters not relating to delinquent acts affecting Indians or members under the age of eighteen (18), when such children are residing within the jurisdiction of the Court. Jurisdiction over a juvenile relative to a delinquent act shall be the same as for criminal jurisdiction. Juvenile Jurisdiction shall be exercised consistent with the provisions of the Indian Child Welfare Act of 1978, P.L. 95-608.

(b) The Tribal Court shall accept and exercise any portion or incident of jurisdiction transferred to or shared with the Tribal Court, generally or in any particular case by any state, federal or other tribal court.

C-9 Service of Process

Service of Process may be made upon any person subject to the Pueblo Court's jurisdiction under this subsection by:

(a) Personally serving the summons upon the respondent who resides outside of the exterior boundaries of the Pueblo, such service having the same force and effect as though service had been made personally within the Pueblo's exterior boundaries;

(b) Certified mail, return receipt requested, upon the respondent who resides outside of the exterior boundaries of the Pueblo; or

(c) Through published notice in a newspapers within the jurisdiction of the respondent's last known address.

(d) Nothing in this subsection limits or affects the right to serve process in any other manner.

Subpart D Administration of the Court

D-1 Court Rules

The Chief Judge of the Tribal Court shall promulgate rules to govern court proceedings, subject to the approval of Tribal Council, provided that such rules shall not abridge, enlarge or modify any substantive rights and shall preserve the right of trial by jury as provided in Subpart F-6 of this Code.

D-2 Filing Fees for Filing Criminal and Civil Petitions in Tribal Court

(a) There will be a twenty dollar (\$20) filing fee assessed on anyone filing a Civil Petition or Criminal Complaint in Tribal Court against another party.

(b) Should the Tribal Court Judge rule in favor of the Petitioner, the Defendant will reimburse the filing fees and Court Costs to the Petitioner.

(c) Tribal Officials or Tribal Representatives acting in an official capacity on behalf of the Pueblo are excluded from filing fees.

D-3 Other Tribal Court Fees

(a) One dollar (\$1) assessment in addition to each penalty assessed. The \$1 assessment shall be used to defray court costs.

(b) One dollar (\$1) assessment in addition to each penalty assessed. The \$1 shall be used for a court automation fund.

(c) One dollar (\$1) assessment in addition to each penalty assessed. The \$1 shall be credited to a judicial personnel education fund.

(d) Ten cents (\$.10) for a copy of each page of a legal document made by the Court Clerk.

(e) Twenty dollars (\$20) for each civil petition or criminal complaint docketed by the Court Clerk.

(f) Twenty dollars (\$20) for a default judgment rendered by the Court.

(g) Twenty dollars (\$20) for each traffic citation filed with the Court.

(h) Expenditure of court funds is subject to the Governor's approval.

(i) The court may waive fees in cases of indigency.

D-4 Coroners

(a) The Governor of the Pueblo of Pojoaque may appoint one or more coroners to serve the Pueblo of Pojoaque. Such coroners shall serve without pay but may be reimbursed for actual and necessary expenses upon presentation of proper vouchers of the Governor of the Pueblo.

(b) Whenever a coroner is informed that an Indian has died within the Pueblo, the coroner shall go to the place where the body is located and inquire into the cause of death.

(c) After inspecting the body and conferring with a physician, if the coroner himself is not a physician, the coroner shall make a written report stating the following facts, if known:

1. The name and census number of the dead person;
2. When and where he died and the circumstances of his death;
3. The cause of death;
4. Who caused the death, if caused by act, whether criminal or not;
5. What property is found on the body, other than clothing of ordinary value; and
6. Where the coroner is not a physician, the name and address of any physician consulted.

(d) The coroner shall submit copies of the report to the Pueblo of Pojoaque Police, to the Governor and to the Bureau of Indian Affairs Agency Superintendent.

D-5 Tribal Police

The Governor of the Pueblo shall be recognized as commander of the Tribal Police of the Pueblo of Pojoaque and shall be held responsible for the general efficiency and conduct of the members thereof. It shall be the duty of the Governor or his duly authorized representatives to keep himself informed as to the efficiency of the Tribal Police in the discharge of their duties, to subject them to regular inspection, to inform them of their duties and keep a strict accounting of the equipment issued them in connection with their official duties. It shall be the duty of the Governor to detail such Indian Policemen as may be necessary to carry out the orders of the Tribal Court and to preserve order during Court sessions. The Governor shall investigate all reports and charges of misconduct on the part of Pueblo policemen and shall exercise such proper disciplinary measures as may be consistent with existing regulations.

D-6 Police Training

(a) It shall be the duty of the Governor to maintain from time to time, as circumstances require and permit classes or instruction for the Tribal Policemen. Such classes shall familiarize the policemen with the manner of making searches and arrests, the proper and

humane handling of prisoners, the keeping of records of offenses and the duties of the police in relation thereto and other subjects of importance for efficient police duty. It shall further be the purpose of the classes to consider methods of preventing crime and of securing cooperation of Pueblo of Pojoaque residents in establishing better social relations.

1. A candidate must be in sound physical condition and of sufficient size and strength to perform the duties required.
2. He must possess courage, self-reliance, intelligence, and a high sense of loyalty and duty.
3. He must never have been convicted of a felony, nor have been convicted of any misdemeanor for a period of one year prior to appointment.

(b) The duties of a Pueblo policeman shall be:

1. To obey promptly all orders of the Tribal Police commissioner or the Governor when assigned to that duty;
2. To lend assistance to brother officers;
3. To report and investigate all violations of any law or regulation coming to his notice or reported for attention;
4. To arrest all persons observed violating the laws and regulations for which he is held responsible;
5. To inform himself as to the laws and regulations applicable to the Pueblo of Pojoaque and the laws of arrest;
6. To prevent violations of the laws and regulations;
7. To report to his superior officer all accidents, births, deaths or other events or impending events of importance;
8. To abstain from the use of intoxicants or narcotics and to refrain from engaging in any act that would reflect discredit upon the Tribal Police Department;
9. To refrain from the use of profane, insolent, or vulgar language;
10. To use no unnecessary force or violence in making an arrest, search or seizure;
11. To keep all equipment furnished to him in reasonable repair and order;
12. To report the loss of any and all property issued by the Federal Government in connection with official duties; and

13. To collect and issue receipts for bail.

D-7 Dismissal

The Governor may remove any Tribal Policemen for any noncompliance with the duties and requirements as set out in the police duty guidelines or for neglect of duty.

D-8 Return of Equipment

Upon resignation, death or discharge of any member of the Tribal Police, all articles or property issued him in connection with his official duties must be returned to the Governor or his representatives.

Subpart E Court Officials

E-1 Officers of the Courts

Officers of the Pueblo of Pojoaque Tribal Court shall include:

- (a) Judges, Attorneys, and law clerks;
- (b) Court clerks and Court interpreters;
- (c) Police Officers, Probation Officers and other persons when carrying out orders of the Court; and
- (d) Bailiffs.

E-2 Court Clerk

(a) The Clerk of the Court is charged with the duty of assisting the lawful functioning of the Courts. Such duties shall include, but not be limited to the following:

1. Drafting complaints, subpoenas, warrants, writs or other orders of the Court;
2. Maintaining records of court proceedings;
3. Administering oaths;
4. Collecting accounting for fines and other property taken into the custody of the Courts;
5. Accepting bonds; and
6. Filing notices of appeal and petitions.

(b) Assistant Clerks of the Court may be employed as necessary.

E-3 Representation Before the Tribal Court

A person before the Tribal Court may represent himself or have another person or a professional attorney serve as his counsel.

E-4 Tribal Court Standards for Practitioners Appearing Before the Pueblo of Pojoaque Tribal Court

(a) Limited Representation. An attorney may limit the scope of representation if the limitation is reasonable under the circumstances and the client gives informed consent. Limitations on the scope of representation may include drafting specific, discrete pleadings or other documents to be used in the course of representation without taking on the responsibility for drafting all documents needed to carry the representation to completion. An

attorney who agrees to prepare a discrete document under a limited representation agreement must competently prepare such a document and fully advise the client with respect to that document, which includes informing the client of any significant problems that may be associated with the limited representation arrangement. While limitations on the scope of representation are permitted under this rule, the attorney must explain the benefits and risks of such an arrangement and obtain the client's informed consent to the limited representation.

(b) Limited Entry of Appearance; Attorney's Duty. In all proceedings where an attorney appears for a client in a limited manner, that attorney shall disclose to the Court the scope of representation. The purpose of this rule is to permit attorneys to appear for clients in a limited manner and to alert the Court and opposing party of that limited role. Attorneys may give technical assistance and, when not prohibited, may prepare, without attribution, papers for filing by a self-represented litigant without violating the duty of candor. Even though an attorney's role may be limited to drafting a single document, the attorney is, however, bound by all of the rules that govern attorney conduct.

(c) Telephonic Hearing. An attorney may file a Motion for Telephonic Hearing with the Pueblo of Pojoaque Tribal Court, provided the motion is filed with the Court at least forty-eight (48) hours prior to the scheduled hearing. The decision to grant or deny the motion shall be in the sole discretion of the Court.

(d) Organization. Attorneys shall be on time, be prepared for all court appearances and have knowledge of the Pueblo of Pojoaque Law and Order Code, Court Rules, Rules of Evidence, and Rules of Procedure.

(e) Respect. Attorneys shall always be courteous and respectful to the Court and opposing parties.

(f) Compliance with Rules of Professional Conduct of Other Jurisdictions in which Attorney is Licensed to Practice. Attorneys shall be in compliance with the rules of professional conduct in all jurisdictions in which the attorney is licensed to practice.

(g) Candor Toward the Tribunal. Attorneys should be candid with the Court and should attempt to resolve, by agreement, differences relating to procedural and discovery matters. An attorney shall not knowingly:

1. Make a false statement of fact or law to the Court or fail to correct a false statement of material fact or law previously made to the Court;
2. Fail to disclose to the Court legal authority known to the attorney to be directly adverse to the position of the client and not disclosed by opposing counsel; or
3. Offer evidence that the attorney knows to be false; if an attorney, the attorney's client or witness has offered material evidence and the attorney comes to know of its falsity, the attorney shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal.

(h) Attorneys shall discourage and decline to participate in litigation that is without merit or is designed primarily to harass or drain the financial resources of the opposing party or the Pueblo of Pojoaque Tribal Court.

(i) Attorneys should avoid any communication, direct or indirect, about a pending case with a judge except as permitted by court rules or otherwise authorized by law.

(j) Attorneys should refrain from impugning the integrity of the judicial system, its proceedings, or its members. Failure to comply with the requirements of these rules may subject counsel to sanctions.

E-5 Legal Department and Paralegal Fees

(a) The Pueblo hereby establishes the Pueblo of Pojoaque Legal Department.

(b) The Pueblo of Pojoaque Legal Department hourly attorney fees are three hundred and fifty dollars (\$350) and hourly legal assistant fees are one hundred and seventy-five dollars (\$175).

E-6 Attorney-Client Privilege

Any Pueblo of Pojoaque General Counsel subpoenaed in any Court of Law shall assert, to the extent legally allowed, the attorney-client privilege.

E-7 Public Records

Except as otherwise provided in this Code, the Tribal Court Clerk shall keep open for inspection a record of all proceedings of each Court. Such record shall reflect the title of the case, the names and addresses of parties and witnesses, the substance of the complaint, the date of the hearing or trial by whom conducted, the finding of the Tribal Court or jury, and judgment or order entered. Unless specifically exempted by the Code, the record of the Court shall be public.

E-8 Copies of Laws

The Tribal Court shall have access to all Tribal, State and Federal Laws applicable to the conduct of persons within the exterior boundaries of the Pueblo of Pojoaque.

Subpart F Rules of Procedure – General

F-1 Issuance of Subpoenas

(a) Upon request of any party to the case or upon the Tribal Court's own initiative, the Tribal Court shall issue subpoenas to compel the appearance and testimony of witnesses, or the production of books, records, documents or any other physical evidence which is relevant and necessary to the determination of the case, over which the court has jurisdiction. The Tribal Court Clerk may act on behalf of the Tribal Court and issue subpoenas which have been signed by a Judge and which are to be served within the exterior boundaries of the Pueblo of Pojoaque.

(b) A subpoena shall bear the signature of the Chief Judge or an Associate Judge of the Tribal Court and it shall state the name of the evidence or witness to be subpoenaed, the title of the proceeding and the place where the witness is to appear or the evidence is to be produced.

F-2 Service of Subpoena

(a) A subpoena may be served at any place within or outside of the exterior boundaries of the Pueblo of Pojoaque, but any subpoena to be served outside the Pueblo shall be issued personally by a Judge of the Tribal Court.

(b) A subpoena may be served by any Tribal Police Officer or other person appointed by the Tribal Court for such purpose. Service of a subpoena shall be made by delivering a copy of it to the person named or by leaving a copy at his place of residence with any competent person eighteen (18) years of age or older, who also resides there.

F-3 Failure to Obey Subpoena

In the absence of a justification satisfactory to the Tribal Court, a person who fails to obey a subpoena may be deemed to be in contempt of court and a bench warrant may be issued for his arrest.

F-4 Witness Fees

(a) Each witness answering a subpoena shall be entitled to a fee as set by rules of the Pueblo Courts and approved by the Tribal Council for each day his services are required in Court. In addition, the Court may offer the payment of reasonable travel and living expenses of the witness.

(b) The fees and expenses provided for in this section shall be paid to the witness upon completion of the trial, but such expenses may be taxed as costs against the defendant if he is found guilty; provided, however, that no defendant shall be incarcerated solely because of his inability to pay such costs immediately.

F-5 Trial Procedures

(a) The time and place of Tribal Court sessions, and all other details of judicial procedure shall be set out in rules of the Court adopted pursuant this Subpart.

(b) The Tribal Court shall not be bound by common law rules of evidence, or the rules of evidence which pertain in state or federal courts.

F-6 Jury Trials

(a) Request for Jury Required. A jury trial shall be held if:

1. Requested by either party in a civil case; or
2. Requested by the defendant in a criminal case where imprisonment is a possible penalty for the offense charged.

(b) Jury Pool. A list of eligible jurors shall be prepared and maintained by the Tribal Council or its representative. Any person over the age of twenty-one (21) years, not subject to judicial restraint by any Court, and who resides within the Pueblo of Pojoaque may be listed as an eligible juror.

(c) Formation. Juries will be comprised of six (6) jurors and one alternate. A person may be excused from serving on a jury upon good cause shown under oath to a Judge. Jurors whose employers provide for compensated leave for jury service shall not be excused by the Court because of work-related responsibilities, except under extraordinary circumstances. The Judge shall consider the needs of the Court to maintain an adequate jury pool before allowing jurors to be excused. Elected Tribal Officials shall be exempt from serving on juries during their terms of office.

(d) Random Selection. The Clerk of the Court will randomly select a minimum of twenty-five (25) names from the jury pool pursuant to a jury pool records maintenance schedule.

(e) Juror Summons. The Court shall issue summons and thereby notify persons selected for jury service. Persons selected for jury service shall be summoned by mail or personal service. Persons who do not appear after proper notice of jury service shall be subject to contempt of Court.

(f) Selection. The Court Clerk shall notify the Court and counsel of the names of the members of the jury pool appearing for selection. In selecting a jury from among the panel members, in all instances the Judge shall conduct the initial questioning of the jurors to establish eligibility, ability to serve and potential bias. When the Court determines that a juror cannot serve, the juror shall be excused. The Judge may use his or her discretion to permit the parties to ask questions and, moreover, may limit examination of jurors when the Judge believes such examination to be improper or unacceptably time consuming.

(g) Challenges/Excusals. Each party shall have the right to a maximum of two (2) preemptory challenges for jurors, for which no reason need be given and which the Judge may not refuse to grant.

(h) Compensation of Jurors. Every person who is required to attend Court for selection or service as a juror shall be entitled to fees for each day, unless otherwise compensated through Tribal ordinance. Jurors whose employers provide for compensated leave for jury service shall not be entitled to fees. Jurors shall be compensated at a rate recommended by the Tribal Judge and provided in the rules of the court. Compensation of jurors is considered to be a court cost that shall become the responsibility of the party requesting a jury.

(i) Juror Oath. The jury shall be sworn in by the Court. Any juror who violates the oath may be held in contempt of Court.

(j) Juror Instructions and Deliberations. The Judge shall instruct the jury with regard to the applicable law and the jury shall decide all questions of fact in the basis of that law. The jury shall deliberate in secret and return a verdict of “guilty” or “not guilty.” The Tribal Judge shall render judgment in accordance with the jury verdict. A jury may render a verdict by majority vote in civil cases. In criminal cases a verdict of “guilty” must be either unanimous or by vote of five (5) to one (1).

(k) Discharging Jurors. When the jury has reached a verdict or has determined that it shall be unable to do so, even with additional deliberation, the Court shall discharge the jurors from service.

F-7 Contempt of Court

(a) The Judges of the Pueblo Courts may rule a person in contempt of Court if he willfully and unjustifiably disrupts, obstructs or otherwise interferes with the due and orderly course of proceedings in the courtroom, after being advised by the Court to cease the interference.

(b) All rulings of and sentences for contempt shall be announced immediately after the acts of contempt occur.

(c) A person found in contempt of court may be sentenced to imprisonment for a period not to exceed thirty (30) days or to pay a fine not to exceed one hundred and fifty dollars (\$150.00), or both.

F-8 Notice Code

(a) Findings and Purpose.

1. Findings. The Pueblo has a compelling interest in protecting tribal sovereignty and jurisdiction and the validity of tribal laws. Tribal sovereignty and jurisdiction or the validity of tribal law may be questioned in cases in the Tribal Court in which the Pueblo or any political subdivision, department, agency, instrumentality, subsidiary, officer, employee and/or legal entity of any nature whatsoever of the Pueblo is not a party. With adequate, timely, and uniform

notice of cases in the Tribal Court that question tribal sovereignty and jurisdiction or the validity of tribal law, the Pueblo can effectively assess whether and how to participate in such cases.

2. Purpose. The purpose of this Code is to provide the Pueblo with adequate, timely, and uniform notice of any and all cases in the Tribal Court that question tribal sovereignty and jurisdiction or the validity of any tribal law and in which the Pueblo or any political subdivision, department, agency, instrumentality, subsidiary, officer, employee and/or legal entity of any nature whatsoever of the Pueblo is not a party.

(b) Notice Required.

1. Court to Inform Parties. In any action or proceeding in which the Pueblo or any political subdivision, department, agency, instrumentality, subsidiary, officer, employee and/or legal entity of any nature whatsoever of the Pueblo is not a party but which questions tribal sovereignty or jurisdiction or the validity of any tribal law, the Tribal Court will give notice in writing of the action or proceeding to the Office of the Governor and to the Legal Department. The Tribal Court will also serve all parties with a copy of the notice given. Such notice will identify the action or proceeding and will include a brief written explanation of the grounds upon which tribal sovereignty or jurisdiction or the validity of tribal law is being questioned. Any party giving notice under this law will simultaneously file proof with the Tribal Court that notice has been given as required by this Code.
2. Continued Notice. If notice is required under this Code, the Tribal Court or any party will timely serve copies of all subsequent filings and orders in the case on the Legal Department.

(c) Manner and Timing of Notice. Notice required under this Code will be given in writing and simultaneously with the raising of a question about tribal sovereignty or jurisdiction or the validity of any tribal law.

(d) Tribal Participation Following Notice.

1. Intervention. Upon timely motion, the Pueblo may intervene as a matter of right in any action or proceeding in the Tribal Court that questions tribal sovereignty or jurisdiction or the validity of any tribal law. Upon intervening under this Code, the Pueblo may assert any and all available claims and defenses and may present any and all admissible evidence relating to the question of its sovereignty or jurisdiction or the validity of any tribal law, and is entitled to the same relief, including costs, as if the Pueblo had instituted a separate action or proceeding; provided that, the Pueblo will not be required to pay costs of litigation in any action or proceeding in which it has intervened under this Code. Intervention under this Code does not abridge, limit, or otherwise affect the right of the Pueblo to commence, maintain, defend, or otherwise intervene in actions or proceedings in the Tribal Court.

2. Amicus Curiae. Upon timely motion or application, the Tribe may appear as *amicus curiae* (friend of the court) in any action or proceeding that questions tribal sovereignty or jurisdiction or the validity of any tribal law.
3. Information Sharing and Consultation. In any action or proceeding in the Tribal Court that questions tribal sovereignty or jurisdiction or the validity of any tribal law in which the Pueblo does not intervene or appear as *amicus curiae*, the Pueblo may nevertheless share important knowledge with any party involved in the action or proceeding. This could include assistance in responding to formal discovery requests or acting as an informal consultant.
4. No Participation. The Pueblo may timely determine that it is in the best interest of the Pueblo not to intervene, appear as *amicus curiae*, or otherwise participate in an action or proceeding in the Tribal Court that questions tribal sovereignty or jurisdiction or the validity of any tribal law.
5. Authority to Determine Participation. Before determining participation on behalf of the Pueblo under this Code in any specific action or proceeding in Tribal Court, the Chief Legal Counsel will obtain the approval of the Governor and of the Tribal Council for cases involving challenges to tribal sovereignty.
6. Timeliness of Participation Determinations. Unless the Tribal Court orders otherwise, where timely and proper notice has been given under this Code, the Pueblo will notify the Tribal Court and parties in writing within sixty (60) days of receipt by the Pueblo of such notice of any determination to participate in any action or proceeding by way of intervention or appearance as *amicus curiae*.

(e) Failure to Give Notice.

1. Failure to Give Notice Not Jurisdictional or Waiver of Rights. The failure of the Tribal Court or a party to give notice as required by this Code does not deprive the Tribal Court of jurisdiction and is not a waiver or modification of any rights otherwise timely asserted by any party. Any notice given under this Code is not a substitute for, or a waiver or a modification of, any other pleading requirement under tribal law.
2. Late Notice. If the Tribal Court or a party discovers that notice to the Pueblo under this law should have been but has not been given, the Tribal Court or party will promptly give notice in writing to the Pueblo as required by this Code. The Tribal Court may stay the action or proceeding at any stage to allow compliance with this Code. If final judgment has already been entered, the Pueblo may motion or apply for rehearing as of right, the Tribal Court will entertain promptly any such motions or applications for rehearing by the Pueblo, and in disposing of such motions the Tribal Court, for good cause shown, may vacate a judgment or any portion thereof.

3. Civil Sanctions. The Tribal Court may impose civil sanctions on any party for willful or unreasonable failure to give notice as required by this Code, and may use other reasonable means to cure any significant harm caused by failure to give notice as required by this Code.

(f) Tribal Jurisdiction and Sovereign Immunity from Suit Unaffected.

1. Jurisdiction. Nothing in this Code shall be deemed or construed to deprive, limit, or extend the jurisdiction of the Tribal Court.
2. Sovereign Immunity from Suit. Notice required under this Code does not authorize a party to name the Pueblo or any political subdivision, department, agency, instrumentality, subsidiary, officer, employee and/or legal entity of any nature whatsoever of the Pueblo as a party to any action or proceeding. Nothing in this Code shall be deemed or construed as a waiver or limitation of the sovereign immunity from suit of the Pueblo or any political subdivision, department, agency, instrumentality, subsidiary, officer, employee and/or legal entity of any nature whatsoever of the Pueblo.

Subpart G Rules of Civil Procedure

G-1 Scope of Rules; Construction; Alternate Source

(a) Scope. These rules govern the procedure in all civil actions and proceedings in the Tribal Court. These rules must be applied to resolve disputes efficiently, reveal the truth, and treat all parties fairly and without prejudice. All cases before the Tribal Court will be conducted in accordance with the Law and Order Code and Pueblo of Pojoaque customs and traditions. These rules apply in criminal matters when no different rule is specified in the Rules of Criminal Procedure contained in Subpart H of the Code.

(b) Mission of the Court. The mission of the Tribal Court is to be fair and unbiased, resolve disputes, maintain rights, and correct wrongs for all cases brought before the Court. Through Tribal laws, rules of court, case law, Tribal custom and common sense in the context of all relevant circumstances, the Pueblo seeks to deal justly in order to protect all inherent rights of the parties.

(c) Construction. These rules will be liberally interpreted and administered to secure a just, speedy, and inexpensive determination of every action. At every stage of the proceeding, the Court may disregard any technical failure to comply with these rules which does not substantively affect the rights of the parties or outcome of the proceedings.

(d) Alternate Source for Rules. In a situation where these rules do not contain a procedure, the parties and the Court may agree on a procedure, or the Court may determine the procedure that will be followed. The Federal Rules of Civil Procedure will apply to any procedures or matters that are not specifically covered in these rules, as long as the Federal Rules do not conflict with these rules or with general principles of fairness and justice as determined and interpreted by the Tribal Court.

(e) Citation Form. These rules shall be known as the Pueblo of Pojoaque Rules of Civil Procedure and will be cited as “PPRCP”.

G-2 Sovereign Immunity

Nothing in these rules shall affect the right of the Pueblo to assert immunity from suit by virtue of its status as a sovereign. The requirements for waivers of sovereign immunity are contained in Subpart J-3.

G-3 Time

(a) How Time is Computed. Whenever a rule or an order requires that an action is taken within a certain number of days:

1. Do not include day of the event that starts the time period;
2. Count every calendar day, including Saturdays, Sundays, and legal holidays; and

3. Include the last day of the time period, but if the last day is a Saturday, Sunday, or Court holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or Court holiday.

4. Any time period ten (10) days or shorter will not include Saturdays, Sundays, or Court holidays.

(b) Extensions of Time. Upon the request of a party and for good cause, the Court may allow an extension of any time limit described in these rules.

G-4 Definitions

In addition to the definitions provided for in Subpart A-3 of the Law and Order Code, the following definitions apply in this Subpart:

(a) Amendment. A change or addition to a Petition, Answer, counter-claim, or other court pleading.

(b) Answer. The document filed by the party defending against a claim or Petition.

(c) Counter-Claim. A claim or Petition by a respondent against a plaintiff.

(d) Cross-Claim. A claim against another party on the same side of the lawsuit: a respondent against another respondent or a plaintiff against another plaintiff.

(e) Default. Failure to defend a case within the time allowed under the rules or failure to appear in Court when ordered to do so.

(f) Execution. Enforcement of a judgment.

(g) Judgment. The decision of the Court on a case.

(h) Party. A person or company that is being sued or is suing; either the plaintiff or defendant in a criminal case or the petitioner or respondent in a civil case.

(i) Petition. The written statement of facts and request for Court action filed to start a civil lawsuit

(j) Petitioner. The party who files a civil petition.

(k) Pleading. Any papers filed or required to be filed with the Court by a party.

(l) Process. Legal document or documents asserting the Court's power (jurisdiction) to compel a person to appear in the Tribal Court.

(m) Respondent. The party against whom the petitioner files a civil Petition.

(n) Service. The manner in which delivery of the Summons or other pleading is made to the other party.

(o) Stipulation. An agreement between the parties that is submitted to the Court.

(p) Subpoena. An order of the Court requiring a witness to attend and to testify at a hearing or trial.

(q) Summons. The document that tells a respondent that he or she is being sued and asserts the power of the Court to hear and determine the case.

(r) Third-Party Petition. A Petition filed by the respondent against a third-party (i.e., a person not presently a party to the lawsuit) alleging that the third party is or may be liable for all or part of the damages which the petitioner may win from the respondent.

(s) Waive. Intentionally giving up a claim or right, either by a statement or through action or inaction.

G-5 Jurisdiction

(a) The Tribal Court is a court of general jurisdiction.

(b) The Tribal Court may exercise jurisdiction over any person or subject matter on any basis consistent with the Law and Order Code, the Indian Civil Rights Act of 1968, and other applicable Federal law.

G-6 Statute of Limitations

(a) Unless otherwise specifically provided for, a civil lawsuit must be filed with the Court within three (3) years of the event at issue in the case. The three-year period will be counted from the date on which the event was first known to the injured party or should have been known to a reasonable person in the injured party's position.

(b) Civil suits filed more than three (3) years after this time period will be dismissed.

(c) This Section shall not apply to claims brought by the Pueblo of Pojoaque.

(d) Any action against the Pueblo or its officers or employees arising from the performance of their official duties must be commenced within one year of the date the cause of action accrued.

G-7 Representation

(a) Pro Se Appearance. Parties may represent themselves.

(b) Non-Attorney Appearance. A party may be represented by a non-attorney advocate with the Court's permission. Whenever a non-attorney represents a party, that person will file a written entry of appearance showing his or her name, address, and telephone number.

(c) Attorney Appearance. Permission for an attorney to practice in the Tribal Court is granted according to the provisions of the Tribal Law and Order Code, Subpart E-4. Whenever an attorney represents a party, the attorney will file a written entry of appearance showing the attorney's name, address, and telephone number. For the purpose of this rule, the filing of any pleading or paper signed by counsel and showing the attorney's name, address, and telephone number constitutes an entry of appearance.

(d) Withdrawal of Representation Requires Court Order. An attorney or non-attorney advocate must obtain an order permitting withdrawal. The Court may place conditions on an order approving withdrawal as justice requires.

(e) Limited Representation. The Tribal Court permits limited-scope representation by a professional attorney according to the standards laid out in Subpart E-4(a)–(b). The attorney shall enter an appearance that outlines the limits of representation.

(f) Sanctions. The Court may impose appropriate sanctions upon an unrepresented party or his or her attorney who is found to have filed a lawsuit, motion, or any other papers for an improper or frivolous purpose such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation. Sanctions may include a fine of up to five hundred dollars (\$500), court costs, and attorneys' fees incurred by the opposing party that were required to resolve the issue.

G-8 Interpreters

If a party or a party's witness requires an interpreter, the party requiring the interpreter must arrange and provide for interpretation at the party's own expense. If testimony is to be interpreted, the interpreter must be court-certified, except with the Court's permission.

G-9 Telephonic Appearance

The Court may hear any matter by telephone conference call where it serves the interests of justice.

G-10 Start of a Civil Case

(a) Beginning a Lawsuit. A party starts a civil lawsuit by filing a written Petition with the Tribal Court along with any filing fees. The Court may waive filing fees for good cause. Every Petition should contain:

1. The name, address, and telephone number of the petitioner and the respondent;
2. A statement of the facts at issue;
3. A statement describing the rights or laws that the petitioner believes were violated (if known);

4. A statement of what the petitioner is asking the Court to order or decide, such as the approximate amount of money requested, return of property, a restraining order, or a child custody determination; and
5. The signature of the petitioner.

No special wording or format is required but petitioners are encouraged to use the Tribal Court's Petition form. The Court Clerk may help petitioners by supplying necessary forms for filing a Petition.

(b) Summons. When a Petition is filed, the Court Clerk will issue and sign a Summons and give it to Tribal Police to be served on the respondent. The Summons will state that the opposing party is required to respond to the Petition within twenty (20) days of service. The Summons will give notice to the respondent that failure to respond may result in a default judgment.

G-11 Service and Filing

(a) Service. In order to proceed with the lawsuit, the petitioner must serve (deliver) a copy of the Petition and Summons to each respondent within ninety (90) days of the filing date.

(b) Who may Serve the Papers. Service may be made by a law enforcement officer or any person who is not a party and is eighteen (18) years of age or older.

(c) How Served. The Petition and Summons must be served on the respondent in a way that ensures the respondent knows about the lawsuit and has a reasonable opportunity to defend against it. Service attempts will be made in the following order:

1. Personal Service: Service may be made by delivering the documents to the party in person, or on a person over fifteen (15) years old at the party's home or principal place of business, or on an officer, managing agent or employee, or partner of a non-individual party. If a person personally refuses to accept service, service shall be deemed performed if the person is informed of the purpose of the service and offered copies of the documents served. The person who delivered the Summons and Petition shall file a statement with the Court that he or she served the papers, stating the name of the person served, the place, date, and time of service, and signing the return of service under penalty of perjury. This is the proof of service.

2. Certified Mail: Service may be made by registered or certified mail, return receipt requested, provided that the envelope is addressed to the respondent and that the respondent signs a receipt for it. The return receipt will be proof of service. Service by mail is complete on the date the receipt is signed by the respondent.

3. Publication: Service by publication may be made for good cause shown upon order of the Court by publishing the contents of the Summons in a local newspaper of general circulation at least once per week for four (4) weeks and by leaving a copy of the Petition with the Court for the party.

(d) Long Arm Service. Any person subject to the jurisdiction of the Pueblo of Pojoaque Tribal Court may be served outside the territorial jurisdiction of the Pueblo in the manner provided and with the same force and effect as if the service had been made within the exterior boundaries of the Pueblo of Pojoaque.

(e) Time for Service. An action may be dismissed without prejudice if service is not completed within ninety (90) days from the date of the filing of the Petition, unless good cause is shown for the delay or as justice requires. The Court's dismissal of the case means that the petition can be brought again but a new Petition will have to be filed and any fees paid previously will not be applicable to the filing of the new case.

(f) Papers other than Petition. A copy of every pleading or document filed with the Court must be provided to the other party or their advocate, unless the Court orders otherwise.

(g) Service on Officers, Employees, or Businesses of the Pueblo of Pojoaque. If the party to be served is an officer, employee, or business of the Pueblo, service must be made by delivering a copy of the Petition and Summons pursuant to Subpart C-4.

(h) Serving a Minor or Incompetent Person. If the party to be served is a minor or has a guardian, service must be made on his or her parent, guardian, or custodian.

(i) Filing by Fax or E-mail. If less than ten (10) pages total, pleadings may be filed by fax to the Tribal Court. A facsimile copy has the same effect as any other pleading. Pleadings and proposed orders may be electronically filed with the Court Clerk.

G-12 Pleadings, Motions, and Orders

(a) Pleadings. Petitions, counter-claims, cross-claims, and third-party Petitions are permitted. An Answer must be filed to a Petition, a counter-claim, a cross-claim and a third-party Petition. The Court Clerk may help petitioners by supplying necessary forms for filing a Petition.

(b) Motions. Any requests for the Court to issue an order or take action must be in writing and contain a statement of the events at issue and a statement asking the Court for some relief or a specific order. No technical wording is required. Unrepresented parties are encouraged to use the standard motion form.

(c) Construction of Pleadings. All pleadings will be interpreted so as to do substantial justice.

(d) Orders. An order includes every instruction of the Court whether included in a judgment or not, and may be made with or without notice to adverse parties and may be vacated or modified with or without notice.

G-13 Answering the Petition

(a) Filing an Answer. Within twenty (20) days after the respondent receives a copy of the Petition and Summons, he or she must file a written Answer to the Petition and serve a copy on the petitioner. An extension of time to file an Answer may be granted by the Court upon a showing of good cause.

(b) Signature and Contact Information. The respondent must sign the Answer and provide a mailing address, telephone number, and email address, if applicable.

(c) Defenses and Denials. In the Answer, the respondent will state in short and plain terms his or her defenses to each of the petitioner's claims. The Answer will admit or deny the statements. The respondent may deny a part of a statement and admit the rest. If the respondent does not have knowledge about a statement or claim, he or she will state that. The respondent has a duty to admit what he or she knows is true.

(d) Defenses. If applicable, the respondent must raise the following defenses before filing an Answer:

1. Lack of personal jurisdiction;
2. Insufficient or incomplete Summons and/or Petition; or
3. Insufficient service of Summons and/or Petition.

Any of the above defenses not raised before filing an Answer will be considered waived. If the respondent raises one of these defenses in a motion before filing an Answer, the time-limit to file an Answer will be suspended until the Court has ruled on the motion. The respondent may raise other defenses in the Answer.

(e) Affirmative Defenses. In responding to a pleading, a party should affirmatively state any defense, including (1) accord and satisfaction, (2) arbitration and award, (3) contributory negligence, (4) discharge in bankruptcy, (5) duress, (6) estoppel, (7) failure of consideration, (8) fraud, (9) illegality, (10) laches, (11) license, (12) payment, (13) release, (14) res judicata, (15) statute of frauds, (16) statute of limitations, (17) waiver, and any other matter constituting an avoidance or affirmative defense. If these affirmative defenses are not pled at the time the answer is filed, they may be asserted later with the Court's permission.

(f) Counter-Claim. A respondent may file a counter-claim against the petitioner following the same rules that apply to Petitions. A counter-claim must arise from the same events raised in the Petition. A counter-claim may be deemed waived if not filed as a counter-claim to the Petition.

(g) Motion for Judgment on the Pleadings. At any time, but not to delay trial, any party may ask the Court for a judgment on the pleadings. If, in a motion for judgment on the pleadings, matters outside the pleadings are presented to the Court, the motion will be treated as a Motion for Summary Judgment (Section G-35) and all parties will be given reasonable opportunity to present to the Court all material relevant to a Motion for Summary Judgment.

(h) Default Judgment. The respondent may be subject to a default judgment if he or she does not file an Answer.

G-14 Form of Pleadings

(a) Caption. Every pleading should contain a caption heading including the name of the Court, the title of the action, the Court file number (if known), and a designation as to what kind of pleading it is (e.g., Petition, Answer, Motion). All pleadings will contain the names of the parties. In the case of multiple parties, the name of the first party on each side may be used on all pleadings filed after the original Petition. Unrepresented parties are encouraged to use forms provided by the Court.

(b) Paragraphs. All claims or defenses should be made in numbered paragraphs. Each paragraph should be limited to a statement of a single set of circumstances. Claims or defenses founded upon separate transactions or occurrences should be set forth in separate counts or defenses.

(c) Signatures. The signature of the party, or counsel, must be on a pleading submitted to the Court. The signature is a certification that the pleading is submitted in good faith, that the matters of fact or law are believed to be true and accurate, and that the pleading is based on a reasonable investigation of the statements of fact or law.

(d) Substantial Compliance. For unrepresented parties, or in the interests of justice, substantial compliance with the rules for form of pleadings shall suffice.

G-15 Amending Pleadings; Dismissing Petition

(a) Amending Before Trial. A petitioner may change the Petition without the Court's permission before the respondent files an Answer if a copy of the changed Petition is delivered to all parties according to the Rules for serving Petitions. After the respondent has answered the Petition, the Court may allow the petitioner to amend the Petition if the change would not be unfair to the respondent.

(b) Amending at Trial. When issues or evidence that were not raised in the pleadings are heard at trial, the Court may take such issues or evidence into account without amending the pleadings.

(c) Dismissing the Petition. The Court will allow a petitioner to withdraw the Petition and will dismiss the case at any time the petitioner requests unless the respondent has filed a counter-claim against the petitioner or dismissal of the case would otherwise be unfair to the respondent. The Court may order a petitioner who withdraws a complaint to pay all of the respondent's costs associated with the Petition.

(d) Involuntary Dismissal. If the petitioner fails to prosecute the case or to comply with these rules or a court order, a respondent may move to dismiss the case or any claim. Costs may be assessed against the petitioner.

G-16 Pre-Trial Conferences

The Court may order the attorneys and any unrepresented parties to appear for one or more pre-trial conferences whenever it appears that a conference might simplify the issues, discourage wasteful pre-trial activities, reduce trial time, or promote settlement of the case.

G-17 Parties

(a) Real Party in Interest. Every legal action must be carried out in the name of the real party in interest, except a personal representative or other person in a fiduciary position can sue in his or her own name without joining the party for whose benefit the action is maintained. Real parties in interest may include businesses and other entities.

(b) Guardian Ad Litem. When a minor or incompetent adult who does not have a guardian is a party, the Court shall appoint a guardian ad litem to represent the minor or incompetent person. The guardian ad litem does not have to be a professional attorney.

G-18 Adding Parties to a Case

(a) Joining Parties. To the extent possible, all interested parties, including businesses or other entities, may be joined in a case. Failure to join a party over whom the Court has no jurisdiction will not require dismissal of the case unless it would be impossible to reach a just result without that party. The failure to join a party may be taken into account to assure that justice is served.

(b) Intervention. A party may intervene and be treated as a party in cases where property in which the party has an interest may be affected or a question of law or fact common to a party's claim may be litigated. If a motion to intervene is granted, the other parties are allowed twenty (20) days after service to answer the pleading of the intervenor.

(c) Substitution of Parties. If a party dies, becomes incompetent, transfers interest, or separates from some official capacity, a substitute party may be joined or substituted as justice requires.

G-19 Discovery

(a) Purpose of Discovery. The purpose of discovery is to ensure that the parties have access to and share all information and evidence related to a case in order to resolve disputes efficiently and reveal the truth. Each party has an obligation to share all non-privileged information and evidence related to a case.

(b) Scope of Discovery. Parties may obtain discovery regarding any matter that is relevant to the case and not privileged, even if the information would not be admissible at trial, so long as the information requested appears reasonably calculated to lead to the discovery of admissible evidence.

(c) Interrogatories. A party may submit written interrogatories (questions) to any other party who must answer them in writing, under oath, within thirty (30) days.

(d) Depositions. A party may take the oral deposition of an adverse party or non-party witness under oath, giving at least ten (10) days' notice and specifying the time and place of the deposition.

(e) Production, Entry, or Inspection. A party may request that another party produce any documents or things in his or her custody for inspection or copying or request permission to enter and inspect property reasonably related to the case. The opposing party shall reply within ten (10) days as to whether or not such requests will be allowed and if not, why not.

(f) Protective Order. A party against whom discovery is sought may move the Court for a protective order to prevent undue annoyance, harassment, embarrassment, oppression, or undue burden or expense. The Court may order that the discovery cease or proceed only upon specified conditions.

(g) Failure to Make Discovery. If a party fails to respond or appear for discovery as provided in this rule, the opposing party may ask the Court for, or the Court on its own motion may issue, an order to compel the other party to perform. The Court may award costs. If a party fails to perform after being ordered to do so by the Court, the Court may, upon motion, order that a certain fact, claim, or defense is deemed established or strike part of a claim or defense, dismiss the case, or, in an aggravated case, render a judgment by default against the non-complying party.

(h) Use of Discovery. Answers to interrogatories and depositions may be used in a motion, hearing, or trial to impeach testimony or for any relevant purpose.

(i) Continuing Duty to Supplement; Witness List. A party is under a continuing duty to supplement responses to discovery requests if the responding party obtains: (1) information that shows a prior response was incorrect or no longer true; (2) the identity and location of persons having knowledge of discoverable material; (3) the identity of each person expected to be called as an expert witness at trial; (4) the identity of any other person expected to be called as a witness at trial; and (5) the subject matter or substance on which testimony is expected.

Any witness who is not identified in accordance with this rule will not be allowed to testify except to prevent injustice or upon agreement of the parties.

G-20 Scheduling Cases for Trial

(a) Date for Trial. The Court will place the case on the Court calendar with or without the request of any party as long as all parties are given adequate notice of trial dates.

(b) Postponement. Upon motion of a party and for good cause shown, the Court may postpone (continue) a trial or proceeding. The Court may require the requesting party pay any cost associated with a postponement.

G-21 Consolidation; Separate Trials

(a) Consolidation. The Court may, upon motion of any party or its own motion, order that some or all of the issues of separate actions shall be tried together when there is a common issue of fact or law relating the actions or for judicial economy.

(b) Separate Trials. The Court may order a separate trial of a claim or issue to avoid prejudice or for convenience.

G-22 Evidence

(a) Form and Admissibility. All evidence admissible under the Federal Rules of Evidence or as otherwise specified in the Law and Order Code shall be admissible. The competency of witnesses to testify shall be similarly determined. The Court may admit otherwise inadmissible evidence if the interests of justice so require.

(b) Examination. At all hearings and trials, the testimony of witnesses shall be taken orally under oath. A party may call any person to be a witness and examine any witness on any relevant matter. A party may impeach his or her own witness.

Cross examination will be limited to the general scope of direct examination, provided, however, that full examination of all witnesses will be allowed on direct or cross examination to assure complete development of all relevant facts.

The Court may question witnesses to clarify issues and in the interests of justice.

(c) Physical Evidence. Written documents and other physical evidence shall be admitted at the Court's discretion.

G-23 Burden of Proof

In a civil action, the party making the claim must prove his or her case by a preponderance of the evidence. A party shall be considered to have met this burden of proof if the evidence, when considered as a whole, tends to prove that the party's claim is more likely to be true than not true.

G-24 Determination of Foreign Law

A party who intends to raise an issue concerning the law of a foreign jurisdiction, including the State of New Mexico, will give notice in pleadings or other reasonable written notice. The Court, in determining foreign law, may consider any relevant source, including testimony, whether or not submitted by a party or admissible under these rules.

G-25 Subpoenas

(a) Issuance. Subpoenas requiring attendance of witnesses or production of documents or things shall be issued by the Court upon request of a party and served in accordance with Subpart F-2.

(b) Subpoena Unnecessary. A person present in Court without being subpoenaed may be required to testify as if he or she had been subpoenaed.

G-26 Jury Trials

(a) Costs. The party requesting a jury trial is responsible for all costs associated with the jury trial, including juror compensation; however, it may assess costs against a party or parties against whom judgment was rendered in accordance with Subpart J-5.

(b) When Allowed. All civil actions will be decided by the Court without a jury unless a party files a request for a jury trial at the time of the Petition or Answer. The party requesting a jury trial must submit an advance payment, as determined by the Court, by the date Jury Selection begins and all required fees and costs not less than forty-eight (48) hours before the scheduled date of trial. The Tribal Court may, upon good cause shown, waive advance payment of the required fees and costs.

(c) Issues that may be Tried. A party requesting a jury trial may specify the issues to be decided by the jury. Any other party may specify, not less than five (5) days before the date scheduled for trial, any other issues he or she wishes to be decided by the jury. Once a party requests that an issue be decided by a jury, the jury request may not be withdrawn without the consent of the other party or parties.

(d) Designation by Judge. The Court may, upon its own motion, order the trial by jury of any or all of the factual issues. The Court may, upon motion of any party or its own initiative, find that some or all of the issues designated for jury trial should not be tried by a jury, and order that no jury trial be held on those issues.

(e) Waiver of Right to Jury. The Court may hear and decide any issues without a jury if either party fails to appear at trial, regardless of any request made for a jury trial.

G-27 Jurors

(a) Choosing the Jury. Juries will be chosen in accordance with the Law and Order Code, Subpart F-6.

(b) Discharge of Juror. If, after the proceedings begin, a juror becomes unable or disqualified to perform his or her duty, an alternate juror will take the place of the discharged juror. If there is no alternate juror, the parties may agree to complete the action with the remaining jurors.

(c) Separation of the Jury. When the jurors are allowed to leave the courtroom during a trial, the Court will instruct them not to converse with or listen to anyone about the trial and will tell them not to form or express an opinion on the case until they begin deliberations.

(d) Deliberation. Once the case is submitted, the jury will deliberate in private.

(e) Things Taken by Jury. When deliberating, the jury may take with them: the Court's instructions; papers or things entered into evidence as exhibits; and any notes taken by the jurors themselves during trial.

(f) Additional Instructions. If the jury has a question after deliberation begins, the jury may request additional instructions in writing from the Court. Any interaction between the Court and the jury must be on the record, after notice to the parties.

(g) Declaration of the Verdict. When a majority of the jurors in a civil case agrees on a verdict, the jury shall inform the Court. The jury shall be taken into the courtroom; the verdict shall be given in writing to the Court and read aloud by the Court. The Court will ask the jury foreperson whether this is the verdict. Either party may have the jury polled to determine if such is, in fact, each juror's verdict. If insufficient jurors agree with the verdict, the jury shall be sent out again to reconsider; otherwise, the verdict is complete and the jury shall be dismissed.

(h) No Verdict. If the jury is discharged before rendering the verdict, or is for any reason prevented from giving a verdict, the action may be retried.

G-28 Special Verdicts

The Court may require the jury to return the verdict in the form of specific findings on specified issues or may require the jury to return a general verdict accompanied by answers to questions related to the issues under consideration.

G-29 Instructions to the Jury

(a) Requests. At the close of the evidence, or at any earlier time as directed by the Court, any party may file written, requested instructions for the Court to give to the jury.

(b) Instructions. Outside the presence of the jury, the Court will inform the parties of the instructions it intends to give the jury. Parties will be given the opportunity to object to the instructions on the record and outside the hearing of the jury.

G-30 Directed Verdict; Judgment as a Matter of Law; Judgment Notwithstanding the Verdict

(a) Motion for a Directed Verdict or Judgment as a Matter of Law. If a party believes that the other party has not met the burden of proof at trial, a motion for directed verdict or judgment as a matter of law may be made any time before the case is submitted to the jury. The motion must specify the law and facts that entitle the party to the judgment.

(b) Motion for Judgment Notwithstanding the Verdict. After a verdict, the parties have fifteen (15) days to move for an entry of a judgment notwithstanding the verdict or for a new trial.

G-31 Findings by the Court

In cases tried without a jury, findings of fact and conclusions of law will be made by the Court in support of all final judgments. Within ten (10) days of the entry of judgment, on the Court's own motion or the motion of any party, the findings and judgment may be amended.

G-32 Disability or Disqualification of a Judge

(a) Disability. If a trial or hearing has begun and the judge is unable to proceed, any other judge may proceed with the case upon certifying familiarity with the record and determining that the proceedings in the case may continue without prejudice to the parties. The successor judge may recall any witness.

(b) Disqualification. Whenever a party alleges that the judge has a bias or prejudice, either against such party or in favor of any other party, the judge will determine in his or her discretion whether to proceed any further with the case. The allegation of bias must be filed as soon as practicable after the case has been assigned or the alleged bias or prejudice is known.

G-33 Judgment

(a) Definition. A judgment includes any final order and no special form is required. The Court in a civil action will announce a judgment either orally or in writing after completion of the trial or hearing. All judgments will be reduced to writing, which will include the basis for the decision.

(b) Judgment on Multiple Claims. An order or decision on some claims in a case will not end the action with respect to any other claims until all claims are finally decided. The appeal period will not start to run until all claims are finally decided, unless the Court makes a specific finding otherwise.

(c) Costs. The Court, at its discretion, may award costs as part of the final judgment.

(d) Attorney Fees. The Court may award attorney fees in a case if it reasonably appears that the case was pursued for purposes of harassment only, or that there was no reasonable expectation of success, or in the interests of justice.

In any action where the Pueblo and/or any of its officers or employees are sued for a cause of action arising out of, or in the course of, the performance of a tribal function or duty, or in any action—except by the Pueblo—against the bond of any such officer or employee, if judgment is rendered against the petitioner, the Court shall award a reasonable attorney fee against the losing petitioner and in favor of the Pueblo and/or its officers or employees.

(e) Entry of Judgment. A judgment is complete and will be deemed entered for all purposes when it is signed by the judge and filed with the Court.

G-34 Default

(a) Entry of Default. When a respondent has failed to respond to a Petition and failed to appear in Court after receiving notice, the Court may enter a default on motion of the petitioner. A judgment by default will not be different in kind from, or exceed in amount, that specifically requested in the original demand for judgment.

(b) Judgment by Default. Judgment by default may be entered:

1. If a party's claim is for a sum of money that can be made certain or there is other specific relief that the Court can grant;
2. If the opposing party has been personally served according to these rules; and
3. The Court has personal jurisdiction over the opposing party. Otherwise, judgment by default can be entered by the Court only upon receipt of whatever evidence the Court deems necessary to establish the claim.

No judgment by default shall be entered against the Pueblo.

(c) Setting Aside Default. The Court may, for good cause, set aside a default judgment.

G-35 Summary Judgment

Any time after the start of an action, but not to delay a trial, any party may move the Court for summary judgment on any or all of the issues. Summary judgment will be granted there is no genuine issue about any important fact and the party asking for summary judgment is entitled to it as a matter of law. Motions for summary judgment may be supported by affidavits, discovery, or memoranda, which must be made available to opposing parties at least two days prior to a summary judgment hearing.

G-36 New Trials; Amendments of Judgment

(a) Grounds; Time. Any party may move for a new trial on any or all of the issues, for any of the following reasons, by filing a motion within fifteen (15) days after the entry of the verdict or judgment:

1. An error or irregularity that prevented any party from receiving a fair trial;
2. Misconduct of the jury or jury members;
3. Newly discovered evidence that ordinary diligence could not have produced at trial;

4. Damages so excessive or inadequate that they appear to have been given under the influence of passion or prejudice; or

5. Insufficient evidence to justify the judgment or the judgment it is contrary to law.

(b) Harmless Error. The Court will not grant a new trial on the basis of error or irregularity that was harmless, meaning the error did not affect substantial justice.

(c) Support for Motion. Parties may include memoranda or affidavits in support of their motions for a new trial and a responsive pleading will be allowed.

(d) Court Initiative. The Court may, on its own initiative, within fifteen (15) days after entry of judgment, order a new trial based on any permitted grounds and will specify the grounds for ordering a new trial.

(e) Motion To Alter or Amend Judgment. A motion to alter or amend a judgment shall be filed with the Court within fifteen (15) days after entry of the judgment.

G-37 Relief from Judgment or Order

(a) Clerical Mistakes. Clerical mistakes in judgments, orders or other parts of the record, and errors arising from oversight or omission may be corrected by the Court at any time on its own initiative or on the motion of any party and after such notice as the Court directs.

(b) Mistakes; Newly Discovered Evidence, etc. On motion, the Court may relieve a party from a final judgment or order for the following reasons:

1. Mistake, surprise, or excusable neglect;

2. Newly discovered evidence that by due diligence could not have been discovered in time to move for a new trial under Section G-36;

3. Fraud, misrepresentation, or other misconduct of the other party;

4. When the Summons in an action has not been served upon the respondent in accordance with Section G-11 and a default judgment was entered;

5. The judgment is void;

6. The judgment was satisfied or discharged or it is no longer equitable that the judgment should apply; or

7. Any other reason justifying relief from the judgment.

The motion for relief from judgment must be filed with the Court within a reasonable time after the judgment became final. The Court has the discretion to determine whether it was filed within a reasonable time. A motion under this rule does not affect the finality of a judgment or suspend its operation.

G-38 Harmless Error

No error in either the admission or the exclusion of evidence, and no error or defect in any ruling or order or in anything done or omitted by the Court or by any of the parties, is grounds for granting a new trial or otherwise disturbing a judgment or order, unless refusal to take such action appears to the Court inconsistent with substantial justice. The Court at every stage of the proceeding will disregard any error or defect in the proceeding that does not affect the substantial rights of the parties.

G-39 Execution

(a) Types of Execution. Court orders allowing execution of a judgment shall consist of two types:

1. Attachment is used to seize property in possession of a judgment debtor.
2. Garnishment is used to seize property or wages in the possession of a person other than the judgment debtor.

(b) Service. Orders of attachment or garnishment shall be served in the same manner as the Summons and Petition, and proof of service shall be filed with the Court.

(c) Requests to Garnish. All requests for garnishment, other than for child support, may be granted at the Court's discretion.

(d) No Self-Help. Subpart J-10 of the Code discourages self-help repossessions.

G-40 Stay of Proceedings to Enforce a Judgment

(a) Stay upon Entry of Judgment. Proceedings to enforce a judgment may issue immediately upon the entry of the judgment, unless the Court in its discretion and on such conditions for the security of the adverse party as are proper otherwise directs.

(b) Stay on Motion for New Trial or for Judgment. In its discretion and on such conditions for the security of the adverse party as are proper, the Court may stay the execution of, or any proceedings to enforce, a judgment pending the disposition of a motion for a new trial or to alter or amend a judgment or of a motion for relief from a judgment or order, or of a motion for judgment in accordance with a motion for a directed verdict, or of a motion for amendment to the findings or for additional findings.

G-41 Injunction/Restraining Order

(a) Temporary Restraining Order (Injunction). A temporary restraining order may be granted without notice to the other party only if it clearly appears from specific facts shown by affidavit or by verified Petition that immediate and irreparable injury, loss, or damage will result to the petitioner before the respondent can be heard.

(b) Duration of Temporary Restraining Order. Every temporary restraining order granted without notice shall be filed immediately with the Court and shall expire by its own terms within such time after entry, not to exceed ten (10) days unless the order is extended for good cause or the other party agrees to extend it. In case a temporary restraining order is granted without notice, a hearing with all parties present will be held as soon as possible. On notice to the party who obtained the temporary restraining order, the other party may appear and move for its dissolution.

(c) Security. The Court may require an applicant for an injunction to provide security, in such sum as the Court deems proper, for the payment of such costs and damages as may be sustained by a party who is found to have been wrongfully enjoined.

(d) Hearing Temporary Restraining Order. Within ten (10) days, the Court will hold a hearing where both sides will be given an opportunity to be heard on whether to issue a longer-term or permanent restraining order (injunction).

(e) Form and Scope of Restraining Order/Injunction; Service. Every order granting an injunction and every restraining order (1) will state the reasons why it was issued; (2) will be specific; (3) will describe in reasonable detail the acts to be restrained or required; and (4) is binding only upon the parties to the action, including their officers, agents, servants, employees, and attorneys, and any persons in active concert or participation with the parties, so long as the parties receive actual notice of the order by personal service or otherwise.

G-42 Appeal

All appeals from the Tribal Court shall be heard by the Tribal Council in accordance with the provisions of the Law and Order Code concerning appeals.

Subpart H Rules of Criminal Procedure

H-1 Complaints

(a) All criminal prosecutions for violation of the Law and Order Code shall be initiated by complaint. A complaint is a written statement sworn to by the complaining witness and charging that a named individual(s) has committed a particular criminal offense.

(b) Complaints shall contain:

1. The signature of the complaining witness sworn to before a Judge or an individual designated by the Judges;
2. A written statement by the complaining witness describing in ordinary language the nature of the offense committed including the time and place as early as may be ascertained;
3. The name or description of the person alleged to have committed the offense; and
4. The section of the Law and Order Code allegedly violated.

(c) The Tribal Court Judge may designate an individual who shall be available to assist persons in drawing up complaints and who shall screen them for sufficiency. Complaints shall then be submitted without unnecessary delay to a Judge to determine whether a warrant or summons should be issued.

(d) If the complaint or the complaint together with other sworn statements is sufficient to establish probable cause to believe that a crime has been committed by the person charged and the Tribal Court has jurisdiction over that person: the Tribal Court shall issue a warrant pursuant to Subpart H-24 of this Code instructing the police to arrest the named accused; or in lieu thereof, the Tribal Court shall issue a summons commanding the accused to appear before the court at a specified time and place to answer to the charge.

(e) When an accused has been arrested without a warrant, a complaint shall be filed with the Tribal Court for review as to whether probable cause exists to hold the accused, and in no instance shall a complaint be filed later than at the time of arraignment.

H-2 Arrests

(a) Arrest is the taking of a person into police custody in order that he may be held to answer for a criminal offense.

(b) No police officer shall arrest any person for a criminal offense set out in the Law and Order Code except when:

1. The officer shall have a warrant signed by a Judge of the Pueblo of Pojoaque Tribal Court commanding the arrest of such person of the officer knows for a certainty that such a warrant has been issued; or

2. The offense shall occur in the presence of the arresting officer; or
3. The officer shall have probable cause to believe that an offense has been committed and that the person to be arrested has committed the offense.

H-3 RESERVED

H-4 RESERVED

H-5 Arrest Warrants

Repealed on October 16, 2008.

H-6 Notification of Rights at the Time of Arrest

Repealed on October 16, 2008.

H-7 Summons in Lieu of a Warrant

Repealed on October 16, 2008.

H-8 Hot Pursuit

Repealed on October 16, 2008.

H-9 Search Warrant – Defined

Repealed on October 16, 2008.

H-10 Issuance of Search Warrant

Repealed on October 16, 2008.

H-11 Execution and Return of Search Warrant

Repealed on October 16, 2008.

H-12 Search Without a Warrant

Repealed on October 16, 2008.

H-13 Contraband, Confiscated and Abandoned Property

Repealed on October 16, 2008.

H-14 Arraignment

(a) Arraignment is the bringing of an accused before the Tribal Court, informing him of his rights and of the charge against him, receiving his plea and setting bail as appropriate in acceptance with Subpart H-17 of this code.

(b) Arraignment shall be held in open court without unnecessary delay after the accused is taken into custody and in no instance shall the arraignment be later than the next regularly scheduled session of the Tribal Court.

H-15 Rights of Accused at Arraignment

Before an accused is required to respond to any criminal charge the Judge shall:

(a) Read to the accused and determine that he understands the complaint and the section of the Law and Order Code which he is charged with violating, including the maximum authorized penalty; and

(b) Advise the accused that he has the right to remain silent; that his silence will not be held against him; that anything he says may be used against him in a Court of Law; to be tried by a jury; and to be represented by counsel at his own expense and that the arraignment will be postponed should he desire to consult with counsel.

H-16 Receipt of Plea at Arraignment

(a) If the accused pleads “not guilty” to the charge, the Judge shall then inform him of a trial date and set conditions for bail prior to trial.

(b) If the accused pleads “guilty” to the charge, the Judge shall determine that the plea is made voluntarily and that the accused understands the consequence of the plea, including the rights which he is waiving by the plea. The Judge may then impose a sentence or defer sentencing for a reasonable time in order to obtain any information he deems necessary for the imposition of a just sentence. The accused shall be afforded an opportunity to inform the Tribal Court of facts in mitigation of the sentence.

H-17 Bail – Release Prior to Trial

Every person charged with a criminal offense before the Tribal Court shall be entitled to be released from custody pending trial under whichever one or more of the following conditions are deemed necessary to reasonably assure the appearance of the person at any time lawfully required.

(a) Release on personal recognizance upon execution by the accused of a written promise to appear at trial and all other lawfully required times.

(b) Release to the custody of a designated person or organization agreeing to assure the accused’s appearance.

(c) Release with reasonable restrictions on the travel, association or place of residence of the accused during the period of release.

(d) Release after deposit by the accused or a bondman's bond in either cash or other sufficient collateral in an amount specified by the Judge or a bail schedule. The Judge, in his discretion, may require that the accused post only a portion of the total bond, the full sum to come due if the accused fails to appear as ordered.

(e) Release after execution of a bail agreement by two responsible members of the community.

(f) Release upon any other condition deemed reasonably necessary to assure the appearance of the accused as required.

H-18 Bail – Release by Police Officer

Any Police Officer authorized to so by the Tribal Court may admit an arrested person to bail pursuant to the bail schedule or release upon personal recognizance. Police Officers shall have available a bail schedule prepared by the Tribal Court which shall be used for setting money bond where such condition of release is deemed necessary. Any Police Officer who refuses to release an accused on bail or who specifies a bail condition which the accused is unable to satisfy shall bring such accused before a Tribal Judge for review of the release conditions at the first available opportunity and without unnecessary delay.

H-19 Bail – Release Pending Appeal

Every person who has been convicted of an offense and who has filed an appeal or a petition for writ of habeas corpus shall be treated in accordance with the provisions of Subpart H-17, unless the Judge has substantial reason to believe that no conditions of release will reasonably assure the appearance of the accused or that release of the accused is likely to pose a danger to the community, to the accused, or to any other person. If the Judge finds such to be the case, he may order detention of the accused.

H-20 Withdrawal of Guilty Plea

The Tribal Court may, in its discretion, allow a defendant to withdraw a plea of guilty, whenever it appears that the interests of justice and fairness would be served by doing so.

H-21 Commitments

(a) No person shall be detained, jailed or imprisoned for more than thirty-six (36) hours pursuant to an arrest unless there be issued an express or conditional commitment order signed by a duly qualified Judge of the Court. Any person arrested on a Friday, Saturday, or a day before a legal holiday who does not provide bail may be held in custody pending arraignment until noon of the next regular business day of the Tribal Court.

(b) There shall be issued for each person held for trial a temporary commitment order, and for each person held after sentencing a final commitment order signed by a duly qualified Judge of the Tribal Court.

H-22 Taking Minor Children into Custody

(a) A child may be taken into custody:

1. Pursuant to an order of the Court in a juvenile proceeding;
2. For an act of delinquency pursuant to the laws of arrest;
3. By a police officer when he has reasonable grounds to believe that the child is suffering from illness or that the child's surroundings are such as to endanger his health, morals and welfare and that his removal is necessary;
4. By a police officer when he or she has reasonable grounds to believe that the child is a runaway from his parents, guardian or other custodian.

(b) Upon taking a juvenile into custody, the arresting officer must immediately advise the juvenile of his rights pursuant to Subpart H-24(a)1.B., and notify the juvenile's parents, guardian or other custodian.

(c) Unless a juvenile who is taken into custody is prosecuted as an adult, he or she may not be fingerprinted or photographed without the written consent of the Tribal Judge, and neither his name nor picture shall be made public by any medium of public information in connection with the juvenile proceedings.

(d) In all cases if the parents, guardian or custodian of a child taken into custody without a court order can be located and are willing and able to take the child under their care, the child shall be surrendered to their care pending any juvenile proceedings or other court orders.

H-23 Cooperation by Federal Employee

(a) No employee of the Bureau of Indian Affairs shall obstruct, interfere with, or control the functions of the Pueblo Courts or influence such functions in any manner except as permitted by the BIA regulations or in response to a request for advice or information from the Court.

(b) Employees of the Bureau of Indian Affairs, particularly those engaged in social, health or education services, shall assist the Courts upon their request in the preparation and presentation of the facts in a case and in the proper treatment of individual offenders.

H-24 Searches, Seizures and Forfeitures

Searches, seizures and forfeitures are reasonable when tribal sovereignty, customs, and traditions are honored, due process is accorded, the spirit of congressional acts are followed, the Pueblo of Pojoaque is not used as a safe haven for crime or criminals, and federal judicial decisions interpreting search and seizure in Indian country are considered.

(a) Warrants.

1. Arrest warrants: Arrest warrants authorize the arrest of a specific person wherever that person can be found.

A. Procedure for issuing an arrest warrant.

i. The Tribal Judge shall have the authority to issue an arrest warrant whenever the Tribal Court is presented with a written and sworn statement by the Pueblo of Pojoaque Tribal Police that there is probable cause that a crime has been committed by an Indian within the jurisdiction of the Pueblo of Pojoaque and that the crime is included within the Pueblo of Pojoaque Law and Order Code.

ii. Arrest warrants shall be in writing and signed by the Tribal Judge.

B. Notification of rights at the time of arrest. Upon arrest, the accused shall be advised that he may remain silent and not answer any questions, that any statements made by him may be used against him in Court, that he has the right to obtain counsel at his own expense, and that he has the right to cease questioning at any time.

C. Summons in lieu of an arrest warrant.

i. The Tribal Judge may deem that an arrest is not required. In lieu of a warrant, the Tribal Judge may issue a summons commanding the accused to appear before the Tribal Court at a stated time and place for an arraignment.

ii. The summons shall contain the same information as the arrest warrant.

iii. If an accused fails to appear after receiving a summons, an arrest warrant shall be issued by a Tribal Judge.

2. Arrest without a warrant.

A. Tribal Police may arrest an Indian when they have probable cause that a crime has been committed by such individual.

B. Tribal Police may continue the hot pursuit and arrest an Indian beyond the exterior boundaries of the Pueblo whenever they have probable cause to believe that the Indian has committed a crime within the exterior boundaries of the Pueblo and is attempting to escape arrest.

3. Search warrants: A search warrant authorizes a search of a specific place for specific items.

A. Procedure for obtaining a search warrant.

i. Absent conditions contained below, in Paragraphs (4) and (5) of this Section, the Tribal Police Department shall request a search warrant for the search of any premises and seizure of property of any person within the Tribal Court's jurisdiction.

ii. A Tribal Judge shall have the authority to issue a warrant for the search of a premises and seizure of property as long as the request contains probable cause that the search will discover stolen, embezzled or contraband property criminally possessed or property that has been used, or will be used, to commit a crime.

iii. Contraband is defined as any property which is unlawful to produce or possess.

iv. Probable cause is supported by a duly signed, written and sworn statement based on reliable information by a duly authorized tribal law enforcement officer of the Pueblo.

v. The search warrant shall be in writing, signed by a Tribal Judge and describe in detail, the property or place to be searched and the property to be seized.

B. Execution and return of a search warrant. Search warrants shall only be executed by Tribal Police officers. A copy of the warrant and receipt for property seized shall be given to the person whose property was seized. The executing officer shall return the warrant, and an inventory of the property seized, to the Tribal Court no later than twenty-four (24) hours after the property was seized.

4. Search without a warrant.

A. A Tribal Police officer may conduct any search without a warrant when the search is made:

i. Incident to a lawful arrest;

ii. With the consent of the person being searched;

iii. Whenever there is probable cause to believe the person may be armed or dangerous;

iv. When the search is of a moving vehicle and there is probable cause to believe that it contains contraband, stolen or embezzled property or instruments used in a crime; or

v. When there is a probability that evidence of a crime may be disposed of before the issuance of a written search warrant.

5. Arrest or search without a warrant by the Tribal Police upon command of the Governor, Lieutenant Governor or Tribal Judge.

A. Under the traditional authority of the Tribal government, the Governor or, in his absence, the Lieutenant Governor, may orally, or in writing, command the Tribal Police to effect an arrest or search and seizure whenever there is written or oral evidence presented by the Tribal Police that a crime has been committed, an individual from another jurisdiction is using the Pueblo as a safe haven to escape law enforcement authorities, or there is an impending threat to the health, safety and welfare of the Pueblo, its members or its visitors. A Tribal Judge also has the authority to orally command the Tribal Police to effect an arrest or search and seizure when the conditions noted above are present.

B. It is the preferred option of the Pueblo of Pojoaque to use the traditional authority or oral approvals only when the circumstances surrounding the issuance of written arrest warrants or written search and seizure warrants may allow evidence of a crime to be destroyed, an individual to evade law enforcement authorities, a crime to be committed, or there is an impending threat to the health, safety and welfare of the Pueblo, its members or its visitors.

6. Arrests, searches and seizures conducted by outside law enforcement agencies.

A. The Pueblo of Pojoaque recognizes the authority, established by the U.S. Supreme Court, of an outside law enforcement agency to conduct an arrest or search and seizure within Indian country under limited conditions.

B. However, the Pueblo of Pojoaque also recognizes that arrests or searches, by any law enforcement agency, may lead to breaches of the peace and unsafe conditions for the law enforcement agency officers involved and the public at large.

C. In order to preserve the peace, protect law enforcement officers, and to ensure that the Pueblo of Pojoaque is not a safe haven for suspected criminals, the Pueblo of Pojoaque will continue to work closely with state and federal law authorities to ensure effective law enforcement protocol.

D. Currently, the Pueblo of Pojoaque enjoys close communications and relations with outside law enforcement agencies. These communications and relations enable effective law enforcement protocol.

E. In the event that an outside law enforcement agent attempts to present an arrest or search warrant to an Indian within the exterior boundaries of the Pueblo of Pojoaque or to a tribally-owned business, the law enforcement agent should be asked to speak directly with the Pueblo of Pojoaque Tribal Police.

F. In order to ensure that arrest and search warrants are legally served within the Pueblo of Pojoaque, the Pueblo of Pojoaque Tribal Police shall be

immediately contacted whenever any outside law enforcement agent attempts to serve an arrest or search warrant without a Tribal Police Officer present.

G. The Tribal Police phone number is 505.455.2295.

H. The Tribal Police shall immediately attempt to contact the serving law enforcement agent and all relevant Tribal authorities to ensure that effective law enforcement protocol is followed.

7. Welfare checks.

A. Under the traditional authority of the Governor, or in his absence the Lieutenant Governor, he may orally command the Tribal Police or Social Services Department to conduct a welfare check of a Tribal Member or person living within the Pueblo of Pojoaque-owned land within the exterior boundaries or a person living within land place in federal trust for the Pueblo of Pojoaque.

B. A Tribal Judge also has the authority to orally command the Tribal Police to conduct a welfare check of a Tribal Member or person living within the Pueblo of Pojoaque-owned land within the exterior boundaries or a person living within land placed in federal trust for the Pueblo of Pojoaque.

C. A welfare check is defined as a physical visit to a person, or their home, to determine whether the person's health, safety or welfare is in danger.

D. In no circumstances is a welfare check to be conducted as a pretext for a search and seizure.

E. Whenever a welfare check is conducted, the Tribal Police or Social Services Department shall, in writing, notify the Governor or Tribal Court of their findings.

(b) Forfeiture of contraband, confiscated property, abandoned property, property used in commission of a crime, property acquired from proceeds of illegal activity or property presenting a danger to the public health, safety and welfare.

1. The Tribal Police may make a written request to the Tribal Court for the forfeiture of property.

A. Property subject to forfeiture includes contraband, confiscated property, abandoned property, property used in commission of a crime, property acquired from the proceeds of an illegal activity or property presenting a danger to the public health, safety and welfare.

B. Requests for forfeiture may be made any time after the property is in the possession of the Tribal Police.

- C. The request shall include the name and address of any party with a known interest in the property. The written petition shall include any Court's case number under which the property was seized and a detailed list of the property requested to be forfeited.
 - D. The Tribal Court shall conduct a hearing regarding the disposition of the property.
2. The owner of property that is in the possession of the Tribal Police may make a written request to the Court for the return of the property.
- A. The written request shall list when the Tribal Police came into possession of the property and a detailed description of the property.
 - B. The Tribal Court shall conduct a hearing regarding the disposition of the property.
3. The Tribal Court hearing for disposition of property.
- A. Prior to the scheduled Tribal Court hearing, the Court shall send a Notice of Hearing to all persons with a known interest in the property.
 - B. During the Tribal Court hearing all persons shall be accorded due process before the Tribal Court determines the status of the property.
 - C. If the property was not property used in commission of a crime, property acquired from proceeds of an illegal activity or property presenting a danger to the public health, safety and welfare and the claimant proves by a preponderance of evidence that they are the lawful owner, the property shall be returned as soon as the property is no longer needed as evidence in a pending legal proceeding.
 - D. All other property shall be destroyed, forfeited to the Pueblo of Pojoaque, or sold at public auction and the proceeds delivered to the Pueblo of Pojoaque.

Subpart I Sentencing

I-1 Nature of Sentences

Except as otherwise provided hereunder, a person found guilty of violating a provision of the Criminal Code, Subpart M, may be sentenced to the penalty provided in such offense. Sentences shall be imposed without unreasonable delay and shall not exceed the maximum penalties provided by law. The penalties provided for the offense are maximum penalties and should be imposed only in extreme cases.

I-2 Sentences of Imprisonment

(a) A person sentenced to imprisonment may work for the benefit of the Pueblo. Any work performed shall reduce the sentence at the rate of two (2) days of incarceration for each day of work performed. "Days of work" shall mean at least four (4) hours of work performed and shall be under the supervision of any person authorized by the Court.

(b) Any sentence of imprisonment shall be reduced by any time spent in jail before judgment was entered.

I-3 Payment of Fines

(a) Any person sentenced to pay a fine shall pay such fine to the Court Clerk who shall issue a receipt therefore.

(b) If the full amount of the fine cannot immediately be paid, the Court may provide for the payment of such fine in installments.

I-4 Failure or Inability to Pay Fines

(a) A sentence of imprisonment shall not be imposed upon any indigent person in the form of an alternative to a fine, i.e., "dollars a day."

(b) Any person sentenced to pay a fine shall not be imprisoned to work off such fine if, by reason of indigence, he is unable to pay the fine imposed.

(c) Any person who is presently able to pay a fine or an installment of a fine and who willfully refuses to do so, may be ordered to imprisonment for, or allowed to work off the unpaid amount of the fine at the rate of five dollars (\$5.00) per day for each day of jail or ten dollars (\$10.00) for each day of work performed.

I-5 Commutation of Sentence

The Judge of the sentencing Court may at any time that one-half or more of an original sentence of imprisonment has been served, commute such sentence to a lesser period upon proof that the person sentenced served without misconduct.

I-6 Suspension of Sentence: Probation

(a) The Judge of the sentencing Court may suspend any sentence upon condition that the defendant comply with such reasonable terms and conditions as the Court deems necessary.

(b) When considering suspending any sentence, the Court shall consider the prior record of the defendant, his background, character, financial condition, family and work obligations, the circumstances of the offense and attempts at restitution.

I-7 Violation of Suspended Sentence

(a) Any person accused of violating the terms or conditions of his suspended sentence shall be afforded a hearing before the sentencing Court to determine the truth of the accusations.

(b) Where, by a preponderance of testimony, a person is found to have violated the terms or conditions of his suspended sentence, such person may be ordered to serve his original sentence or any portion thereof.

I-8 Disposition of Fines

(a) All monetary fines imposed for the commission of an offense shall be in the nature of an assessment of the payment of designated Court expenses. Such expenses may include the payment of fees to jurors, witnesses answering subpoenas, etc.

(b) All fines assessed and collected shall be paid to the Pueblo of Pojoaque bonded treasurer or his or her disbursing agent to be deposited in a special account labeled "Special Deposit, Court Funds." The disbursing agent shall withdraw such funds in accordance with existing Pueblo regulations upon the order of the Court Clerk signed by a Judge for payment of specific fees to the jurors and witnesses. The disbursing agent and the Court Clerk shall keep an accounting of all such deposits and withdrawals for the inspection of any interested person.

(c) Whenever such funds shall exceed the amount necessary for the payment of Court expenses herein before mentioned, the Governor of the Pueblo shall designate further expenses of the Court which shall be paid by these funds.

I-9 Civil Remedies not Precluded

The imposition or suspension of any penalty on condition of restitution to one whose person or property has been injured, for the commission of any offense under this Code shall not preclude any civil remedy for such injuries.

I-10 Community Service for Pueblo of Pojoaque Tribal Members

Tribal Members who are required to perform community service may serve either in maintenance or operation of the Wellness Center at the discretion of the Manager.

I-11 Cost of Incarceration Fines for Criminal Offenses

The fines for criminal offenses shall reflect the costs of incarceration and should be included as part of the punishment for a criminal offense. In all criminal convictions, the Tribal Court shall assess the entire amount of incarceration fees. The Tribal Judge shall use their discretion in approving a payment plan for the incarceration fees.

I-12 Payroll Policy for Incarcerated Pueblo of Pojoaque Tribal Members

(a) As soon as a Tribal Member is convicted of a crime in Tribal Court, or any other court of lawful jurisdiction, all payroll benefits shall cease for as long as they are incarcerated.

(b) If a Tribal Member is convicted of a crime in the Tribal Court, and the Tribal Member is then incarcerated, the Tribal Court shall send a copy of the Tribal Court Order to the Lieutenant Governor's office for further disposition.

I-13 Weatherization Funds to Pay Debts Owed to the Tribal Government/Tribal Court

(a) An enrolled Member's outstanding debts to the Tribal government or the Tribal Court must be paid prior to the issuance of a weatherization check. If the outstanding debt is not paid, the amount of the outstanding debt shall be withheld from the Member's weatherization check and applied to the outstanding debt.

(b) A Tribal Official or the Tribal Judge shall notify the accounting department prior to the issuance of the weatherization checks of any amounts to be withheld from the weatherization check and that the amount shall be applied to the outstanding debt.

(c) The cost of foster care of an enrolled Member's child shall be considered an outstanding debt.

I-14 Weatherization Checks for Incarcerated Felons

(a) Weatherization checks may be granted for the purposes of weatherizing homes. Any weatherization check granted to an enrolled Member who is a felon incarcerated in a State or Federal facility shall be placed in the enrolled Member's permanent trust fund account. The permanent trust fund may be accessed after the enrolled Member's release from incarceration.

(b) The Tribal Member, upon release from incarceration, shall report to the Tribal Court for the disposition of funds and the Tribal Court shall determine the amounts to be paid for Tribal restitution and for all other purposes.

I-15 Sex Offender Notification Registration

(a) The Pueblo of Pojoaque delegates to the State of New Mexico all sex offender registration and notification functions.

(b) The Tribal Court shall notify any sex offender convicted in the Pueblo of Pojoaque Tribal Court that they shall immediately report to the appropriate State of New Mexico or Federal agency for sex offender registration and notification.

(c) The Tribal Court shall forward a copy of the Tribal Court Order in all sex offender conviction cases to the appropriate State of New Mexico or Federal agency for sex offender registration and notification.

Subpart J Civil Actions

J-1 Judgments – Notice

No judgments shall be entered in any suit unless the respondent has received actual notice of such suit or notice was served according to the service rules in Section G-11 and he has a reasonable opportunity to appear in Tribal Court and defend himself. Evidence of receipt of notice shall be kept as a part of the record in the case. In all civil suits, the petitioner may be required to deposit with the Court Clerk a fee or other security in a reasonable amount to cover costs and disbursements in the case.

J-2 Law Applicable in Civil Suits

(a) In all civil suits, the Court shall apply any laws of the United States that may be applicable; any authorized regulations of the Interior Department; or any ordinances or customs of the Pojoaque Pueblo not prohibited by such Federal Laws.

(b) Where doubt arises as to customs and usages of the Pueblo of Pojoaque, the Tribal Court may request the advice of counselors familiar with such customs and usages. Any matters that are not covered by customs and usages, by tribal ordinances or by applicable Federal Laws and regulations shall be decided by the Tribal Court according to the laws of the State of New Mexico.

J-3 Tribal Waivers of Sovereign Immunity

(a) The Tribal Council only authorizes waivers of sovereign immunity that are approved by a specific Tribal Council resolution and are in writing.

(b) All waivers of sovereign immunity shall explain the scope of the waiver. Scope of the waiver may include the duration of the waiver, the jurisdiction covered in the waiver, the terms of the contract, the limits on damages, or the amount of the contract.

(c) The Tribal Council may authorize any Tribally-chartered or Federally-chartered corporation to waive the corporation's sovereign immunity. The authorization shall be contained in the corporation's articles of incorporation. However, the corporation's waiver of sovereign immunity is limited to the corporation. The waiver of a corporation's sovereign immunity is not a waiver of the Pueblo of Pojoaque's sovereign immunity.

J-4 Judgments in Civil Actions

(a) In all civil cases, judgments shall consist of an order of the Tribal Court awarding money damages to be paid to the injured party or the performance of some other act for the benefit of the injured party.

(b) Where the injury inflicted was the result of carelessness of the respondent, the judgment shall fairly compensate the injured party for the loss suffered.

(c) Where the injury was deliberately inflicted, the judgment may impose any additional penalty upon the respondent.

(d) Where the injury was inflicted as a result of an accident and where both the petitioner and respondent were at fault, the judgment shall compensate the injured party for a reasonable part of the loss he suffered.

J-5 Costs in Civil Actions

The Tribal Court may assess the accruing cost of the case against a party or parties against whom judgment was rendered. Such cost shall consist of the expenses of voluntary witnesses for which either party may be responsible and the fees of jurors in those cases where a jury trial was held and further expenses connected with the proceeding before the Tribal Court as the Court may direct.

J-6 Payment of Judgments

A judgment shall be considered a lawful debt in all proceedings to distribute an Indian decedent's estate.

J-7 Full Faith and Credit to Foreign Judgments

(a) Purpose. Without Tribal Court action, foreign judgments are generally not enforceable within the boundaries of the Pueblo of Pojoaque. This section is intended to provide a uniform and fair procedure for the enforcement of foreign judgments by the Pueblo of Pojoaque Tribal Court.

(b) Definitions. For the purposes of this section:

1. "Issuing Court" means a court of another jurisdiction that issued the foreign judgment for which full faith and credit is being sought.
2. "Foreign Judgment" means any judgment, order, or decree of a court of another Pueblo, tribe, state, or jurisdiction, as well as any other administrative order or notice to withhold income associated therewith.
3. "Proponent" means any person that wishes to enforce a foreign judgment.

(c) Full Faith and Credit. The Tribal Court may give full faith and credit to authentic and properly registered foreign judgments, provided that the issuing court has not declined reciprocal full faith and credit to the judgments of the Pueblo of Pojoaque Courts.

(d) Full Faith and Credit for Child Support Orders.

1. Properly issued foreign judgments that relate to child support enforcement will be given full faith and credit pursuant to 28 U.S.C. § 1738B. Such orders will be considered properly issued where: the issuing court had subject matter jurisdiction over the matter and personal jurisdiction over the parties subject to the foreign judgment; proper service of process under the law of the issuing jurisdiction was made on such parties; and reasonable notice and opportunity to be heard was given to the parties.
2. Foreign judgments concerning child support enforcement shall be registered with the Tribal Court pursuant to Subsection (e).

(e) Registration. Any person that wishes to enforce a foreign judgment must register the judgment with the Tribal Court. The procedure for proper registration is as follows:

1. If the judgment is concerning wage garnishment of a Pueblo of Pojoaque employee, the proponent shall contact the Pueblo of Pojoaque Human Resources Department to confirm that the individual is employed by the Pueblo. If the judgment is concerning wage garnishment of a Pueblo of Pojoaque Enterprise employee, the proponent shall contact the Pueblo's Corporate Human Resources Department to confirm employment.
2. The proponent shall file the judgment with the Pueblo of Pojoaque Tribal Court. Proper filing shall be accomplished when the proponent has paid all necessary filing fees and delivered to the Tribal Court a certified copy of the foreign judgment, along with a motion requesting that the Tribal Court recognize and enforce the foreign judgment.
3. In order to ensure due process, the Tribal Court will serve notice of the order upon parties subject to the judgment, consistent with the Pueblo of Pojoaque Rules of Civil Procedure.
4. Parties have ten (10) days to raise objections to enforcement of the judgment. If no objections are made, the Tribal Court will honor and enforce the foreign judgment.

(f) Partial Enforcement. Where a foreign judgment is invalid by reason of a lack of jurisdiction of the issuing court, the Tribal Court may adopt some or all of its provisions as an original order of the Court after determining that the parties subject to the judgment were given sufficient notice and opportunity to present evidence and that the provisions adopted do not contravene Pueblo of Pojoaque law or policy.

J-8 Appeal – Timing & Filing Fees

In all civil cases, any party aggrieved by a judgment may appeal from a decision of the rendering court to the Court of Appeals upon giving notice of such appeal at the time of judgment or within ten (10) days thereafter along with a filing fee of ten dollars (\$10.00) and upon giving proper assurance to the Tribal Judge through the posting of a bond or assurance that he will satisfy the judgment if it is affirmed. In any case where a party has perfected his right to appeal as established herein, the judgment of the Tribal Court shall not be executed until after final disposition of the case by the Court of Appeals.

J-9 Garnishments

Repealed on March 6, 2014.

J-10 Repossessions

The Tribal Court shall have jurisdiction over all repossession requests. The Tribal Court should bear in mind that the traditional policy has been never to honor “self-help” repossessions.

J-11 Unlawful Use of Identification Cards and Documents

(a) It is an unlawful use of an identification card or document within the exterior boundaries of the Pueblo of Pojoaque to:

1. Display or cause to display or have in their possession any identification card that contains a false or fictitious name or date of birth;
2. Display or represent as one’s own any identification card belonging to another person; or
3. Display an altered, forged or fictitious identification card.

(b) Any employee or agent of a wholly-owned Pueblo of Pojoaque business establishment may question any person in their business establishment as to whether they are the person identified on the card or document. No employee or agent of a wholly-owned Pueblo of Pojoaque business establishment is criminally or civilly liable:

1. On account of such questioning; or
2. For immediately reporting to the law enforcement authorities the person suspected of violating this Section of the Law and Order Code.

(c) Any employee or agent of a wholly-owned Pueblo of Pojoaque business establishment who suspects that an identification card is being unlawfully used may take, or copy the information on, that identification card or document until the law enforcement authorities arrive. Such a taking does not render the employee or agent criminally or civilly liable.

(d) Any law enforcement officer may file in Tribal Court a civil petition on any person suspected of violating this Section of the Tribal Law and Order Code.

(e) Penalties. Any person found in violation of this Section may be fined up to two hundred dollars (\$200) by the Tribal Judge.

(f) Destruction of Evidence. Evidence used to violate this Section shall be retained by the Tribal Police. The Tribal Police shall periodically destroy such evidence, per Tribal Court order.

J-12 Civil Liability for Conversion

(a) Conversion of money, assets or property of the Pueblo, or its corporations, is a civil offense.

(b) Conversion is defined as the unauthorized intentional taking or transfer of the Pueblo of Pojoaque's, or its corporations', money, assets or property.

(c) Any person found to have converted the money, assets or property of the Pueblo or its corporations may be civilly liable to the Pueblo or its corporations. The damages may include punitive damages of no more than four (4) times the amount of money or value of goods converted, costs of the lawsuit, and reasonable attorney's fees.

(d) Any person who has been found to have converted the property of the Pueblo of Pojoaque or its corporations is a danger to the Pueblo. The person may be excluded from the Pueblo of Pojoaque's exterior boundaries for an amount of time to be determined by the Tribal Court.

J-13 Harassment Ordinance

(a) Harassment consists of intending to annoy, seriously alarm or terrorize another person when it serves no lawful purpose. The harassment must be such that it would cause a reasonable person to suffer substantial emotional distress.

(b) The allegation of harassment must be on file with the Tribal Police.

(c) Any harassment violation will be subject to a civil petition issued by the Tribal Police.

(d) Any harassment violation will subject to the exclusive jurisdiction of the Tribal Court.

(e) Any person found violating the Harassment Ordinance is subject to a fine of from fifty dollars (\$50) to five hundred dollars (\$500).

J-14 Firearms Registration

(a) All firearms within the Pueblo of Pojoaque shall be registered with the Pueblo of Pojoaque Tribal Police using the Pueblo of Pojoaque Firearms Registration Form.

(b) Anyone possessing an unregistered firearm may be subject to a civil fine of up to five hundred dollars (\$500) and confiscation of the firearm. Anyone falsifying a registration form may be subject to a civil fine of up to five hundred dollars (\$500).

(c) The Pueblo of Pojoaque Firearms Registration Form is attached to this Ordinance and the Form shall be kept on file at the Tribal Police Department.

J-15 Limited Liability of Hotelkeepers to Guests on the Pueblo of Pojoaque

(a) Hotelkeepers are liable to their guests for loss of guests' property up to a limit of one thousand dollars (\$1,000), if the loss is caused by theft or negligence of a hotelkeeper or hotel employees.

(b) The hotelkeeper is not responsible for theft or loss of any money, jewels, jewelry or other valuables as the hotel provides suitable safes for the safekeeping of money, jewels, jewelry or other valuables. Safes are available in the room and at the front desk.

(c) The Limited Liability of Hotelkeepers to Guests policy shall be printed and posted conspicuously within guest rooms.

J-16 Threats or Physical Harm to Elected or Appointed Officials

(a) Any Indian or non-Indian who threatens physical harm or commits an act of physical harm to an elected or appointed Pueblo of Pojoaque Tribal Official or a person conducting the official duties of the Pueblo of Pojoaque Tribal government shall be subject to this section.

1. An elected or appointed Pueblo of Pojoaque Tribal Official is defined as any person who is elected or appointed by the Pueblo of Pojoaque General Council or Tribal Council to carry out duties on behalf of the Pueblo of Pojoaque.

2. A person conducting the official duties of the Pueblo of Pojoaque Tribal Government is defined as any person who is appointed by the Pueblo of Pojoaque to carry out official Tribal government duties.

3. A threat of physical harm is defined as any verbal or written threat of physical harm against a Tribal Official that is communicated to a third party.

4. An act of physical harm is defined as any intentional bodily touching of a Tribal Official that is intended to harm the Tribal Official.

(b) A person found guilty under this section may be subject to money damages not to exceed five thousand dollars (\$5,000).

J-17 Heroin Control Act

(a) The Pueblo of Pojoaque has a zero tolerance policy of heroin and intravenous use of illegal drugs. This policy includes civil and criminal prohibitions and adoption of medical treatment approaches to combat the problem to protect the community and families.

(b) The Heroin Control Act supersedes all prior conflicting provisions concerning heroin and intravenous use of illegal drugs that are contained in the Tribal Law and Order Code regulations and ordinances, lease agreements or employee handbooks.

(c) A copy of the Heroin Control Act of 2012 shall be made available to all enrolled members of the Pueblo of Pojoaque.

(d) Heroin and Intravenous Use of Illegal Drugs.

1. Any person who buys, possesses, sells or uses heroin within the exterior boundaries of the Pueblo of Pojoaque shall be considered a threat to the public health, safety and welfare.

2. Any person who admits to or is arrested for heroin or intravenous use of illegal drugs within the exterior boundaries of the Pueblo shall be considered a threat to the public health, safety and welfare and shall undergo mandatory drug testing at the time of arrest. Law enforcement shall present such findings to the Court and Tribal Officials at the time of arraignment.

3. Any person who is found guilty in any court of law of heroin or intravenous use of illegal drugs shall be considered a threat to the public health, safety and welfare.

4. Any Tribal Police Officer who suspects a person of heroin use or intravenous use of illegal drugs may petition the Tribal Court for scientific testing of the suspected user.

5. Any allegation of suspicion shall be supported by written and verified facts before scientific testing is ordered by the Tribal Court.

6. If the person suspected of heroin or intravenous use of illegal drugs tests positive for the use, they have violated the law and shall be considered a threat to the public health, safety and welfare.

(e) Penalties.

1. Any person who is a threat to the health, safety and welfare of the Pueblo of Pojoaque under the provisions of this Section shall be subject to the following penalties:

A. A fine of up to five thousand dollars (\$5,000) per violation.

B. Exclusion from the exterior boundaries of the Pueblo for a duration to be determined by the Tribal Court.

C. Immediate termination of employment and Tribal benefits for a duration to be determined by the Tribal Court.

D. The violator may be responsible for payment of treatment costs.

E. A neglected child adjudication of unlimited duration for any parent of an Indian child when the parent is a threat to the public health, safety and welfare under the provisions of this Section.

(f) Rescission of Penalties.

1. The Tribal Court shall provide a written Order to the person who is determined to be a threat to the public health, safety and welfare. The Order shall set out the conditions under which any of the penalties imposed may be rescinded.

2. In the case of neglected child adjudication, the parent has two (2) years in which to successfully comply with the Tribal Court's Order. If the parent has not successfully complied with the Tribal Court's Order within two (2) years, termination of parental rights shall be initiated by the Pueblo of Pojoaque Social Services Department. The two (2) years may be extended by the Tribal Court with a written justification for the extension.

J-18 Graffiti and Vandalism Ordinance

(a) This Section shall apply to Tribal Members and visitors to the Pueblo who are over the age of sixteen (16) at the time the offense was committed.

(b) Graffiti and vandalism is defined as intentionally or maliciously defacing or destroying any Pueblo property, any real property of another, or any personal property of another, when the graffiti or other material used for the graffiti or vandalizing is ink, paint, spray paint, crayon, charcoal, acid, or any physical force that is applied without the consent or reasonable grounds to believe that there is consent of the Pueblo or the owner of the property.

(c) For the first offense, whoever commits graffiti or vandalizes is subject to fines up to one thousand dollars (\$1,000), eighty (80) hours of mandatory community service, and shall be required to make restitution to the Pueblo or the property owner.

(d) For the second offense, any visitor who commits graffiti or vandalizes shall be excluded from the Pueblo for life, and shall be required to make restitution to the Pueblo or the property owner.

(e) For the second offense, any Tribal Member who commits graffiti or vandalizes shall lose all Tribal privileges and services for one (1) year, and shall be required to make restitution to the Pueblo or the property owner.

(f) For the third offense, any Tribal Member who commits graffiti or vandalizes shall lose all Tribal privileges and services for five (5) years, shall be excluded from the Pueblo for five years, and shall be required to make restitution to the Pueblo or the property owner.

J-19 Civil Forfeiture Code

(a) Property is subject to forfeiture in a civil proceeding only upon a showing of probable cause that the property could be used to commit or facilitate commission of a crime under Tribal, State, or Federal law.

(b) Any property obtained from proceeds of criminal activity is subject to forfeiture. Conviction in Tribal, State, or Federal courts is not a prerequisite to forfeiture proceedings.

(c) Items Subject to Forfeiture. The following are subject to forfeiture whenever they appear within the exterior boundaries of the Pueblo of Pojoaque:

1. All controlled substances and all controlled substance analogs which have been manufactured, distributed, dispensed or acquired in violation of the federal Controlled Substances Act (21 U.S.C. 801, *et seq.*), the federal Controlled Substances Import and Export Act (21 U.S.C. 951 *et seq.*), any offense under New Mexico State law involving manufacturing, distributing, or possessing with intent to manufacture or distribute a controlled substance (as defined in section 102 of the federal Controlled Substances Act (21 U.S.C. 802));
2. Any marijuana over the amount of two ounces;
3. Cocaine, or any of its derivatives, in any amount;
4. Methamphetamine, or any of its derivatives, in any amount;
5. Heroin, or any of its derivatives, in any amount;
6. All raw materials, products and equipment of any kind, including firearms, which are used or intended for use in manufacturing, compounding, processing, delivering, importing or exporting any of the substances described in Paragraphs 1 through 5;
7. All property which is used or intended for use as a container for property described in Paragraphs 1 through 6;
8. All conveyances, including aircraft, vehicles or vessels, which are used or intended for use to transport or in any manner to facilitate the transportation of property described in Paragraphs 1 through 6;
9. All books, records and research products and materials, including formulas, microfilm, tapes and data, which are used or intended for use in trafficking of Paragraphs 1 through 6;
10. Narcotics paraphernalia or money which is a fruit or instrumentality of any crime involving Paragraphs 1 through 6; and
11. Property obtained from proceeds of criminal activity.

(d) Exceptions to Forfeiture of Conveyances. Notwithstanding Subsection (a):

1. No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture, unless it appears that the owner or other person in charge of the conveyance is a consenting party to the possession or trafficking in substances listed in Subsection (a), Paragraphs 1 through 6.
2. No conveyance is subject to forfeiture when the possession or trafficking in substances listed in Subsection (a), Paragraphs 1 through 6 was done without the owner's knowledge or consent.
3. Forfeiture of a conveyance encumbered by a bona fide security interest shall be subject to the interest of a secured party if the secured party neither had knowledge of nor consented to the act or omission.

(e) Forfeiture Procedure.

1. Property subject to forfeiture and disposal under the Civil Forfeiture Code may be seized by the Pueblo of Pojoaque Tribal Police upon an Order issued by a Tribal Official or the Tribal Court.
2. Seizure may be made without an Order when the Tribal Police have probable cause to believe that the property is listed in Subsection (a).
3. Property taken or detained under this Section shall not be subject to replevin, but is deemed to be in the custody of the Tribal Police.
4. The Pueblo shall begin forfeiture proceedings in the Tribal Court no later than thirty (30) days after the property is seized.
5. The forfeiture procedure shall follow all guarantees of the Indian Civil Rights Act.
6. Property is subject to forfeiture in the civil proceeding only upon a showing of probable cause that the property could be used to commit or facilitate commission of a crime under Tribal, State, or Federal law.
7. A Tribal Court Order shall direct the disposal of any forfeited property.

J-20 Skateboard, Scooter, Roller Skates, and Bicycles Ordinance

(a) Any person riding a skateboard, scooter, roller skates, or bicycle on the sidewalks of businesses located in the main shopping area of the Pueblo of Pojoaque or at the Towa Golf Course shall be in violation of this Ordinance. The main shopping area includes the Supermarket, strip shopping center, and all other surrounding businesses.

(b) The Realty Department shall post notices throughout the main shopping area that it is a violation of the Law and Order Code to operate a skateboard, scooter, roller skates, or bicycle

on the sidewalks within the shopping area. The notice shall also state that violators are subject to fines and/or confiscation of the skateboards and scooters. The Towa Golf Course shall notify all persons in an appropriate manner of this Ordinance.

(c) Any Pueblo of Pojoaque Tribal Police Officer may enforce this Ordinance by issuing the alleged violator a civil citation, noting the date, time, and nature of the offense. A copy of the civil violation shall be given to the alleged violator. The citation shall give the alleged violator the option of paying a fine or appearing before the Tribal Court to contest the citation.

(d) Any violation of this Ordinance shall be subject to the exclusive jurisdiction of the Tribal Court.

(e) The fines shall be fifty dollars (\$50.00) for the first offense. Second violations shall be subject to confiscation of the skateboard, scooter, roller skates, or bicycle. Violators are also responsible for any destruction or injuries caused by their actions.

(f) The Court, in its sole discretion, may order community service at the rate of ten dollars (\$10.00) per hour in lieu of a fine.

Subpart K Domestic Relations

K-1 Marriage and Divorce

All marriages consummated according to State Law, Tribal custom or tradition, the Tribal Code, or the laws of another county shall conform to the provision of this Code.

(a) Jurisdiction. The Tribal Court shall have the authority to solemnize or conduct marriages or grant divorces when either party is a member of the Pueblo of Pojoaque.

1. The Tribal Court shall also have jurisdiction to hear and determine separate maintenance, annulment, adoptions, determination of paternity and support, custody of minor children and change of name and to determine if full faith and credit or comity should be given to judgments of a Court or other jurisdictions in these matters when an enrolled member of the Pueblo of Pojoaque is a party.

(b) Marriages. A valid marriage hereunder shall be constituted of the following:

1. The issuance of a marriage license by the State of New Mexico or any other valid jurisdiction; and

2. The solemnizations of the marriage by Pueblo tradition and custom, or by a Judge within the jurisdiction of the Pueblo of Pojoaque or by a recognized clergyman or public official authorized to do so by the laws of any State or Country.

(c) Solemnization. In the event a judge, clergyman, Tribal judge or anyone authorized to do so solemnizes a marriage, the marriage license shall be filed with the State within thirty (30) days of the solemnization. The validity of any marriage under this Code is not affected by the absence of a ceremony.

(d) Invalid or Prohibited Marriages. Marriages which are prohibited or invalid under this Code are:

1. Where either party is lawfully married to another living spouse unless the former marriage has been legally annulled or dissolved.

2. Between ancestors and descendants of every degree, between a stepfather and stepdaughter or between stepmother and stepson, between brothers and sisters, aunts and nephews, uncles and nieces, and between first cousins, whether the relationship is of the half or whole blood, and, legitimate or illegitimate.

3. When marriages are prohibited by custom and traditions of the Pueblo.

4. All such marriages listed in this Section are invalid for the purpose of this Code.

(d) Grounds for Annulment or Voidable Marriage. A marriage may be voided or annulled by the Tribal Court for any one of the following reasons upon the application of one of the parties:

1. When either party to the marriage shall be incapable of consenting thereto.
2. When the consent was obtained by force or fraud.
3. When either party was at the time of the marriage incapable of consummating the marriage or the incapacity is continuing.
4. When the marriage was invalid on one of the grounds set forth in Paragraph (d).
5. If, after correction of any of the foregoing defects, the parties shall continue to live together as husband and wife, the marriage shall not subsequently be subject to annulment because of such defect.
6. Procedure for annulment must be instituted by petition of the party laboring under the disability or upon whom the force or fraud is imposed in a civil action.

(e) Effects of Annulment of Voidable Marriage. The legitimacy of children and their entitlement to enrollment conceived or born prior to a judgment of annulment shall not be affected by the judgment. The judgment shall be conclusive only as against the parties to the action and those claiming under them.

(f) Divorce. A marriage may be dissolved in the Tribal Court for incompatibility of the parties for whatever reason when either party is an enrolled member of the Pueblo of Pojoaque. The Court may require a waiting period of up to sixty (60) days before making any divorce final.

(g) Actions of the Court Pending Divorce or Annulment.

1. The Tribal Court may order:
 - A. The husband or wife to provide for the separate maintenance of his or her spouse and children as the Court may deem just upon application therefore or in the disposition of a divorce proceeding.
 - B. The care, custody and maintenance of the minor children of the marriage during the pendency of the proceedings.
 - C. Any reasonable temporary property settlement for the use of real and personal properties, as between the parties, and the recovery and delivery to each of the parties of any of their personal property in possession or control of the other, for good and adequate reasons, and the use of any and all property, whether real or personal, and the payment of debts, all on a temporary basis until final adjudication by the Court.
 - D. To restore the maiden name of the wife, if requested.

K-2 Determination of Heirs

If an Indian shall die leaving property, other than an allotment or other trust property subject to the jurisdiction of the United States, any person claiming to be an heir of the decedent shall bring suit in the Pueblo of Pojoaque Tribal Court to have that Court determine the heirs of the decedent and distribute the property.

K-3 Probate of Wills

If an Indian shall die leaving a will disposing of property, other than an allotment or other trust property subject to the jurisdiction of the United States, the Tribal Court shall determine the validity of the will.

K-4 Domestic Violence Ordinance

(a) Jurisdiction. The Pueblo of Pojoaque has criminal jurisdiction over any act of domestic violence that occurs within the exterior boundaries of the Pueblo that involves an Indian. The Tribal Court has civil jurisdiction over any act of domestic violence that occurs within the exterior boundaries of the Pueblo of Pojoaque owned land.

(b) Definitions. In addition to the definitions contained in Subpart A-3,

1. “Act of Domestic Violence” means physical harm, bodily injury, or assault; or, the infliction of fear that physical harm, bodily injury, or assault could occur momentarily; or, terroristic threats; or, criminal sexual conduct.
2. “Domestic Violence” means acts of violence committed by a current or former spouse or current or former partner of the victim, by a person with whom the victim shares a child in common, by a person or partner who is cohabitating with or has cohabitated with the victim as a spouse or partner, or by a person similarly situated to a spouse or partner of the victim, by persons involved in a significant romantic or sexual relationship, or by a person related to the victim by blood.
3. “Order of Protection” means a Tribal Court action. No fees shall be charged either when a Petition for an Order of Protection is filed with the Tribal Court, or when comity or full faith or credit is requested for any order of Protection issued by another court of competent jurisdiction. After a petition is filed, the petitioner’s address shall be kept confidential by the Tribal Court, except for the purposes of notifying the petitioner of further court actions or for law enforcement purposes.

(c) Procedure for Order of Protection. Upon receipt of a written petition for an Order of Protection, or for comity or full faith and credit of another court’s order, the Tribal Court shall either schedule an emergency ex parte hearing, if the respondent is not available, or a hearing with all parties present. The written petition shall include the allegations, a police report if available, and the address and phone number of the respondent.

(d) Hearings; Ex Parte Order; Mutual Orders of Protection.

1. If an ex parte Order of Protection is granted, the Court shall include in the Order either a date for a full hearing with all parties present or the opportunity for the respondent to be heard at a hearing with all parties present. If a full hearing is not scheduled by the Tribal Court, the Tribal Court shall schedule a full hearing after the respondent contacts the Tribal Court, in writing, of the desire for a full hearing.
2. All Orders of Protection shall include the precise conditions that the respondent must follow. The duration of the Order of Protection shall be determined solely by the Tribal Judge.
3. Mutual Orders of Protection and/or any provisions for restraining both parties shall only be issued if there are facts cited in the order that indicate that both parties acted primarily as aggressors and that neither party acted primarily in self-defense. Both parties must file for an Order of Protection and/or request provisions for restraint before a Mutual Order of Protection and/or any provisions for restraint are issued.

(e) Penalties.

1. Civil Penalties for Not Following Orders of Protection. Any person not following the provisions in an Order of Protection shall be subject to a charge of civil violation of a Tribal Court Order of Protection. Fines may be levied up to five thousand dollars (\$5,000) and restitution to the petitioner may be ordered.
2. Criminal Penalties for Not Following Orders of Protection. Any Indian not following the provisions in an Order of Protection shall be subject to a charge of criminal violation of a Tribal Court Order of Protection. Upon conviction, the violator may be imprisoned for not more than one year, fined up to five thousand dollars (\$5,000), and ordered to pay restitution to the petitioner.

(f) Procedures for Criminal Prosecution of an Act of Domestic Violence.

1. Arrest. Upon a finding of probable cause that an act of domestic violence has been committed by an Indian, the Pueblo of Pojoaque Tribal Police shall arrest the alleged violator.
2. Criminal Complaint. Upon the filing of a criminal complaint with the Tribal Court, the Judge may issue any necessary restraining order or Order of Protection as the Judge deems advisable to protect the alleged victim.
3. Criminal Procedure. The Tribal Police and Tribal Court shall follow the criminal procedure contained in the Tribal Law and Order Code for the arraignment and advisement of rights of any alleged violator of the Domestic Violence Ordinance.
4. Penalties. Any Indian violating the Domestic Violence Ordinance may be subject to fines of up to five thousand dollars (\$5,000), restitution to any abused party,

probation with conditions, parole with conditions, or imprisonment of up to one year, at the discretion of the Tribal Judge.

Subpart L The Children's Code

L-1 Definitions

In this Subpart, unless the context otherwise requires:

- (a) "Act of delinquency" means an act which if committed by an adult would be punishable as an offense defined under Subpart M of this Code.
- (b) "Adult" means a person aged eighteen (18) years or more.
- (c) "Child in need of supervision" means a child who:
1. Being subject to compulsory school attendance is habitually truant from school;
or
 2. Habitually disobeys the reasonable and lawful demands of his parents, guardian, or other custodian, and is ungovernable and beyond their control.
- (d) "Custodian" means a person other than a parent or guardian to whom legal custody of the child has been given by court order or who is acting in loco parentis.
- (e) "Delinquent child" or "delinquent" means a child who has committed an act of delinquency and is in need of care or rehabilitation.
- (f) "Legal custody" means a legal status created by Court order following an adjudication of delinquency, whereby a minor is permitted to remain in his home subject to supervision and return to the Court for violation of probation at any time during the period of probation.
- (g) "Minor" or "child" means a person under the age of sixteen (16) years.
- (h) "Neglected child" means a child:
1. Who has been abandoned by his parents, guardian, or other custodian;
 2. Who is without proper parental care and control, or subsistence, education, medical or other care or control necessary for his well-being because of the faults or habits of his parents, guardian or other custodian or their neglect or refusal, when able to do so to provide them; or
 3. Whose parents, guardian, or other custodian are unable to discharge their responsibilities to and for the child because of incarceration, hospitalization, or other physical or mental incapacity.
- (i) "Protective supervision" means a legal status created by court order in neglect cases whereby the minor is permitted to remain in his home under supervision, subject to return to the Court during the period of supervision.

L-2 Composition

The judges of the Tribal Court shall act as the Juvenile Court in proceedings in which a child is to be adjudicated neglected, in need of supervision, or delinquent.

L-3 Juvenile Matters

(a) Where a child is accused of committing an offense under the Criminal Code, a judge of the Court may either:

1. If the child is over sixteen (16) years old, proceed with the case as a regular criminal matter and treat the child as an adult when the interests of justice require; or
2. Declare the proceeding a juvenile matter and proceed as provided in Paragraph (b) of this Section.

(b) In any case where a child is accused of committing an act of delinquency, charged with being a child in need of supervision, or deemed to be a neglected child, the Court shall order the proceedings to be adjudicated in a confidential manner.

L-4 Preliminary Hearing

Upon the filing of a petition alleging the need for supervision or court intervention, the Court shall order a preliminary hearing to determine the sufficiency of the petition and to determine whether a full hearing should be ordered.

L-5 Notification of Hearing

(a) The Court shall order the delivery of the summons along with a copy of the petition alleging delinquency, need of supervision or neglect:

1. To the child, if he is over the age of fourteen (14) years and is alleged to be delinquent or in need of supervision;
2. To the parents, guardian, or custodian of the child;
3. To the spouse of a married child; and
4. To any other person the Court deems necessary and proper to the proceedings.

(b) The summons shall order the appearance of the persons before the Court at the preliminary hearing. The summons shall be served personally on the party named in the summons within three (3) days after the filing of the petition and not less than two (2) days before the date set for the preliminary hearing.

L-6 Right to Representation

In delinquency and in need of supervision cases, a child and his parents, guardian or custodian shall be advised by the Court or its representatives that the child may be represented by counsel at his own expense. In neglect cases, the parents, guardian or custodian shall be advised of their right to retain counsel at their own expense. In any juvenile proceeding, the Court may appoint counsel to represent the retained.

L-7 Proceedings

(a) At the preliminary hearing the specific allegations in the petition shall be presented to the parties named in such petition. The named parties shall either admit or deny the allegations in the petition.

(b) If the allegations are admitted, the Court may proceed with the disposition of the case.

(c) If the allegations are denied, the Court shall set a date for hearing at which the parties may present evidence.

L-8 Consent Decrees

(a) At any time after the filing of the petition, the Court on its own motion or on motion by the child or the child's parents, guardian, or custodian, may suspend the proceedings and continue the child under the supervision of the Court in the child's own home, subject to such terms and conditions as the Court deems necessary and as agreed upon by the parties affected. The Court, on its own motion and at any time, may dismiss the complaint or petition if it feels that court adjudication is unnecessary or unwarranted under the circumstances.

(b) Consent decrees shall remain in effect for six (6) months unless the child is sooner discharged by the Court.

L-9 Full Hearing – Proceedings

(a) If, at the full hearing, the Court finds on the basis of a valid admission or a finding based on proof beyond a reasonable doubt that a child committed the acts of which he is alleged to be delinquent or is in need of supervision, it may proceed with the disposition of the case.

(b) If the Court finds from clear and convincing proof that a child is neglected, it may proceed with the disposition of the case.

(c) After any findings in Paragraphs (a) or (b) of this Section, the Court may immediately, or at a later date, hold a disposition hearing wherein any information relevant to the proper disposition of the child may be received. Such information may be received by the Court to the extent of its probative value despite the fact that it would not have been admissible in the hearing on the complaint or petition. The parties shall be afforded an opportunity to examine

and controvert such information and to cross examine any persons responsible for such information.

L-10 Rights and Privileges

(a) Any child charged with being delinquent or in need of supervision shall be accorded the privilege against self-incrimination. Additionally, illegally seized or obtained evidence shall not be received by the Court to establish any allegation against the child.

(b) An admission or confession made by a child outside of court is insufficient to support a finding that the child committed the acts alleged unless such admission or confession is corroborated by other admissible evidence.

(c) In all cases, procedural due process shall be afforded to all stages of any juvenile proceedings.

L-11 Disposition

(a) If a child is found by the Court to be neglected, the Court may make any of the following orders of disposition to protect the welfare of the child:

1. Permit the child to remain with his parents, guardian, or other custodian subject to such conditions and limitations as the Court may prescribe;
2. Place the child under protective supervision;
3. Transfer legal custody to the BIA, Social Services, or other public agency subject to the orders of the court; or
4. Transfer custody to a responsible relative or other adult person who is found by the Tribal Court to be qualified to receive, care for, and supervise the child.

(b) If a child is found to be delinquent or in need of supervision, the Court may make any of the following orders of disposition for his supervision, care and rehabilitation.

1. Any order authorized by Paragraph (a) of this Section for the disposition of a neglected child; or
2. An order placing the child on probation under such terms and conditions as the Court may prescribe.

L-12 Order of Adjudication, Noncriminal

An order of disposition or other adjudication in juvenile proceedings shall not be deemed a conviction for a crime. The disposition of a child and evidence given in any juvenile proceeding shall not be admissible against the child in any case or proceeding in any other court, whether before or after he has reached majority.

L-13 Limitation on Dispositional Orders

(a) An order of probation or protective supervision shall remain in force no longer than six (6) months unless the child is sooner released by the Court.

(b) When a child reaches the age of eighteen (18) years, all orders affecting him pronounced by the Juvenile Court shall terminate, and he shall be released from probation or protective supervision under such orders.

L-14 Petition to Revoke Probation

(a) A child, subject to court supervision or orders, incident to adjudication as a delinquent child or child in need of supervision who violates any terms imposed by the Court may be proceeded against in a hearing to revoke probation.

(b) Probation shall not be revoked except upon a showing by clear and convincing proof that a term or condition of the child's probation was violated. Probation revocation proceedings shall be governed by the rights and duties applicable to delinquency and in need of supervision cases contained in this Subpart.

(c) If a child is found to have violated a term or condition of his or her probation, the Court may extend the period of probation or make any other disposition allowed under Subpart L-11 (Disposition).

L-15 Appointment of Guardian Ad Litem

At any state of a juvenile proceeding, the Court may appoint a guardian ad litem for a child who is a party to the proceedings if the child has no parents, guardian, or custodian, or his natural or adoptive parents are not in a position to exercise effective guardianship.

L-16 Protective Orders

In any juvenile proceeding, upon application of a party, or on motion by the Court, the Court may enter an order restraining the conduct of any party over whom the Court has obtained jurisdiction if:

(a) An order of disposition of a delinquent or neglected child or a child in need of supervision has been entered; and

(b) The Court finds that the person's conduct is or may be detrimental or harmful to the child and will tend to defeat the execution of the order or disposition; and

(c) Due notice of the application or Court motion and the grounds thereafter has been given to the persons against whom the order is directed, provided that such person has been given an opportunity to be heard.

L-17 Records; Publication Prohibited

(a) The records of proceedings in juvenile matters shall be kept separate from other Court records and shall not be open to anyone other than the parties to the proceeding, the Court, or other persons authorized by Court order.

(b) No part of the record shall be published by a newspaper or other agency disseminating news or information, nor shall a newspaper or agency publish the name of a child charged with being delinquent, in need of supervision, or neglected.

L-18 Destruction of Records

When a child who has been in a delinquent or a need of supervision proceeding attains the age of eighteen (18) years, the Tribal Court shall order the Court Clerk to completely destroy all records of such proceedings involving such child.

L-19 Termination of Parental Rights and Adoption Ordinance

(a) Statement of Policy.

1. It shall be the policy of the Pueblo of Pojoaque to always protect the best interests of children who are enrolled Members.

2. It shall be the policy of the Pueblo of Pojoaque to recognize the rights of parents to raise their children, free of interference by the Tribal government, except in cases of neglect or abuse.

3. When there is overwhelming evidence that a child has been physically abused or neglected and there is little chance that the conditions or causes of the abuse or neglect are likely to change in the foreseeable future, or when the effects of the physical abuse or neglect are serious, the Tribal Court shall consider terminating parental rights and allowing adoption if it is in the best interests of the child.

4. The Pueblo of Pojoaque recognizes that the effects of termination of parental rights have profound consequences for the natural parent and the child. In order to ensure a fair process, to protect the best interests of the child, and to guard parental rights, the Tribal Court shall follow all procedures contained in this Ordinance.

(b) Definitions. In addition to the definitions contained in Subpart A-3,

1. “Adoption”: The legal process by which a child acquires parents other than the natural parents. The legal process by which a parent acquires a child other than by the natural process.

2. “Parental Rights”: The fundamental right to conceive and raise one’s child.

3. “Relinquishment”: The voluntary termination of parental rights by the natural parent in a legal proceeding.

4. “Termination of Parental Rights”: A legal proceeding for involuntary termination of parental rights of the natural parent. Severing the natural parent’s legal rights and legal obligations to the child.

5. “Tribal Council Notification”: The Tribal Council shall be sent a copy of a Final Order at the conclusion of any proceeding involving the Termination of Parental Rights and Adoption Ordinance.

(c) Relinquishment Procedures and Policy.

1. A parent may decide to relinquish parental rights only if allowed by a written Tribal Court Order.

2. The parent must petition the Tribal Court, in writing, to relinquish parental rights.

3. The petition must contain a written statement why the parent wishes to relinquish parental rights, a specific list of facts supporting the petition, and the child’s place of birth and enrollment status.

4. The petition must contain a written statement that the parent understands that relinquishing parental rights means that, if the petition is granted, the parent shall have no legal rights or responsibilities to the child.

5. The petition must contain a written statement that, if the petition is granted, the petitioner shall not be notified, or have any participation, in future adoption proceedings.

6. The petition must contain a written statement by a licensed psychologist or psychiatrist that the parent has been counseled about the possible psychological effects on both the parent and the child of relinquishing parental rights. The petitioner is responsible for paying for the report.

7. After receiving the petition, the Court shall schedule a hearing to determine whether it is in the child’s best interests to grant the relinquishment.

8. Notice of hearing shall be served to the natural parent(s), if the natural parent(s) is (are) known, or caretaker(s).

9. The hearing shall also determine whether it is proper to restrain the natural parent(s) from having further contact with the natural child.

10. The Court’s determination shall be made in a written Order and shall be final and not appealable.

11. The final Order granting relinquishment shall not be used as evidence of wrongdoing in any other civil or criminal proceeding in any Court.

(d) Involuntary Termination of Parental Rights Procedure and Policy.

1. The Pueblo of Pojoaque, acting on behalf of the child, may request, in writing, that the Tribal Court terminate the parental rights of a child in an involuntary termination of parental rights action.
2. Grounds for involuntary termination of the parental rights are:
 - A. Abandonment of the child: Abandonment is when either parent has left the child without provisions or support for over a month, the custodial parent or social service agency has given written notice to the Tribal Court of the abandonment and, after a Court hearing, the parent who has abandoned the child has not followed the Court Order which shall outline the steps to remedy the abandonment.
 - B. Severe parental neglect: Severe parental neglect is when a Tribal Court action has adjudicated that the child was abused or neglected and the conditions and causes of the abuse or neglect are unlikely to change.
 - C. Parental abuse: Parental abuse is when a parent has caused great bodily harm to the child or their siblings, or the other parent has encouraged or neglected evidence of incest between the siblings, or tried or attempted to try to sexually abuse the child or torture the child.
3. The written petition shall include the grounds for involuntary termination of parental rights, a specific list of facts supporting the petition, and the child's place of birth and enrollment status.
4. A hearing shall be scheduled by the Tribal Court.
5. Notice of hearing shall be served to the natural parents, if the natural parents are known, or caretakers.
6. The Pueblo of Pojoaque shall be responsible for bringing all witnesses and evidence supporting the petition to the hearing.
7. All parties shall have the opportunity to cross-examine the witnesses.
8. Lawyers may be present for all parties, at the parties' own expense.
9. If one party is represented by an attorney, the Pueblo shall provide an attorney for the opposing party.
10. There must be evidence beyond a reasonable doubt that the parent's rights should be terminated.
11. The Court's determination shall be made in a written Order and shall be final and not appealable.

12. The final Order terminating parental rights shall not be used as evidence of wrongdoing in any other civil or criminal proceeding in any Court.

(e) Involuntary Termination of Parental Rights When There is a Disintegration of the Parent-Child Relationship and a New Psychological Parent-Child Relationship Has Developed Between the Child and the Caretaker.

1. The Pueblo of Pojoaque may request, in writing, on behalf of the child and the caretaker, that the Tribal Court terminate the parental rights of a child when there is a disintegration of the parent-child relationship and a new psychological parent-child relationship has developed between the child and the caretaker.
2. This action shall be considered an effective abandonment of the child.
3. In order to bring this action, all of the following conditions must be present:
 - A. The child has lived in the home of the caretaker for over one year.
 - B. The parent-child emotional relationship has disintegrated or was never formed.
 - C. A psychological parent-child relationship has developed between the caretaker and the child.
 - D. The caretaker is willing to adopt the child.
 - E. A child, over the age of twelve (12), has consented to the adoption by the prospective parent(s).
4. The written petition shall include the grounds for involuntary termination of parental rights and adoption and a specific list of facts supporting the petition, the child's place of birth and enrollment status.
5. A hearing shall be scheduled by the Tribal Court.
6. Notice of hearing shall be served to the natural parent(s), if the natural parent(s) is/are known, or caretaker(s).
7. The Pueblo of Pojoaque shall be responsible for bring all witnesses and evidence supporting the petition to the hearing.
8. The Pueblo of Pojoaque shall also include a psychiatrist's report supporting the allegation that the parent-child emotional relationship has disintegrated or was never formed and that a psychological parent-child relationship has developed between the caretaker and the child.
9. All parties shall have the opportunity to cross-examine the witnesses.

10. Lawyers may be present for all parties, at the parties' own expense.
11. There must be evidence beyond a reasonable doubt that the parent's rights should be terminated.
12. The Court's determination shall be made in a written Order and shall be final and not appealable.
13. The final Order terminated parental rights shall not be used as evidence of wrongdoing in any other civil or criminal proceeding in any Court.
14. The final Order shall include the findings supporting termination and adoption.

(f) Requirements for Adoption.

1. Any caretaker may petition, in writing, the Tribal Court for adoption of a child when that child has no living parent or parental rights have been terminated.
2. The Pueblo of Pojoaque represents the caretaker when there is a written petition for adoption of a child in a termination of parental rights action when there is a disintegration of the parent-child relationship and a new psychological parent-child relationship has developed between the child and the caretaker.
3. All prospective adoptive parent(s) shall successfully complete a Pueblo of Pojoaque program for adoptive parent(s). The required program shall be administered through the Pueblo of Pojoaque Social Services Department. The required program shall not be longer than six (6) months in duration, unless the Court finds that there is good cause for extending the length of the program. If there is good cause, the program may recommend adoption to the Tribal Court before six (6) months.
4. The adoptive parent(s) becomes the legal parent(s) of the child and it shall not be the legal obligation of the natural parent(s) to give any further emotional or financial support to the child nor shall the Pueblo of Pojoaque be obligated to give the adoptive parent(s) further support, financial or otherwise.

L-20 Curfew for Minors

- (a) Curfew for Parks & Recreation Areas. No person under eighteen (18) years of age, other than duly authorized employees or officers of the Pueblo, is permitted to be in or on any park or recreational area within the exterior boundaries of Pojoaque Pueblo between the hours of 9 PM and 6AM of any day from June 1 through August 31 and between the hours of 7PM and 6AM of any day from September 1 through May 31, except when organized activities are scheduled by approval of the Pueblo of Pojoaque Tribal Council and/or the Governor.
- (b) No parent or legal guardian of a child under the age of eighteen (18) years may knowingly allow such child to be upon the streets or other public places within the exterior boundaries of Pueblo of Pojoaque between the hours of 9PM and 6AM from June 1 through

August 31 and between the hours of 7PM and 6AM from September 1 through May 31, hereinafter called "Curfew Hours".

(c) No child under the age of eighteen (18) years is permitted to be upon the streets and other public places within the exterior boundaries of the Pueblo of Pojoaque during Curfew Hours, except under the following conditions:

1. When accompanied by a parent or legal guardian or by some adult to whose care the child has been entrusted by such parent or guardian;
2. When attending a social, patriotic, religious, education, athletic, civic or other similar activity sponsored by a recognized school, church, fraternal or community organization, but in such event, not later than 9PM from June 1 through August 31 or 7 PM from September 1 through May 31 or forty-five (45) minutes after such events terminate.

(d) Any parent or legal guardian who violates or allows a child under his or her custody or control to violate this ordinance may be assessed a civil penalty up to ten dollars (\$10) for the first violation, and twenty dollars (\$20) for the second violation. Any subsequent violations will be assessed a civil penalty of fifty dollars (\$50) and family counseling will be mandatory.

L-21 School Attendance Policy

(a) The Pueblo of Pojoaque Social Services Department shall petition the Pueblo of Pojoaque Juvenile Court to declare a child who does not attend school as "a neglected child" or "a child in need of supervision."

(b) The parent or parents of the child shall attend all court hearings and the Juvenile Court shall order those parent or parents to comply with any of the court's conditions that will stop the absenteeism.

(c) The Juvenile Court decisions in these matters shall be final and not appealable to the Tribal Council.

L-22 Policy and Procedures of Child Protection Team

(a) Policy for Child Protective Services. The Pueblo recognizes that children are one of its most valuable resources. The Pueblo hereby declares that it is the policy of the Pueblo to protect the best interest of its children and to promote the stability and security of the Pueblo through the Child Protection Team ("CPT or Team").

(b) Mission Statement and Purpose. The purpose of Indian child protective services is to promote the stability and security of Indian Tribes and families, and to prevent abuse, neglect, delinquency and exploitation of children by reaching out with services to stabilize family life and to preserve the family unit.

(c) Goals.

1. To implement tribal placement standards established by Pueblo of Pojoaque Tribal Council for the placement of Pueblo of Pojoaque children from their families in which abuse and/or neglect occur.

2. To provide recommendations for the placement of abused and/or neglected tribal children in foster or adoptive homes which reflect the unique values of Pueblo culture.

3. To make recommendations for the provision of short and long-term child protective services for any case of tribal delinquency, child abuse, child neglect, educational neglect or child in need of supervision.

(d) Responsibilities & Duties of the CPT. The CPT shall serve as an advisory board to the Pueblo on child custody and placement matters. The CPT shall review child custody placements involving Pueblo children, as requested by the Social Services Department, and make recommendations regarding placements of Pueblo children. The CPT may make recommendations concerning tribal policies and practices with respect to Pueblo children to the Social Services Department and to the Pueblo of Pojoaque Tribal Council. The CPT shall undertake such additional duties and responsibilities as requested by the Tribal Council.

(e) Members and Leadership of the CPT. Membership shall consist of seven (7) voting members and three (3) nonvoting members appointed by Pueblo of Pojoaque Tribal Council to serve such terms at the pleasure of the Tribal Council until removed or replaced. Members shall be recruited from groups, professions and tribal representatives with special interest or expertise in child welfare and child abuse and neglect. Voting Members may include but not limited to members representative of Tribal Officials, Tribal Council, Tribal Education Department, Tribal Law Enforcement, and Tribal Social Services Department. Nonvoting Members may include but not limited to members representative of Boys and Girls Club, Child Development Center, Youth Program, and where necessary, an attorney or other legal representative. The designated head of the CPT shall be a Chairperson.

(f) Confidentiality. All information and records acquired by the CPT in the exercise of its duties are confidential and may only be disclosed as necessary to carry out its lawful purposes. CPT members shall be advised of the confidential nature of the position and are required to sign confidentiality agreements on a yearly basis. A breach of confidentiality is grounds for removal from the CPT or work-related disciplinary actions if the member is an employee of the Pueblo of Pojoaque.

(g) Conflict of Interest. Conflicts of interest are determined on a case-by-case basis by the Chairperson. If a case involves a relative to one of the CPT members, the member may withdraw their participation. If the member decides not to withdraw participation, (s)he may remain involved in the case as long as their involvement does not interfere with the proper handling of the case as determined at the discretion of the Chairperson.

Subpart M Criminal Offenses

M-1 Definitions

In this Subpart, unless the context otherwise requires:

- (a) “Adult” shall mean a person who is 18 years of age or older.
- (b) “Bodily injury” shall mean impairment of physical condition or substantial pain.
- (c) “Deadly weapon” shall mean any instrument used in such a manner as to render it capable of causing death or serious bodily injury.
- (d) “Dangerous weapon” shall mean any instrument of the type described in Section M-10 of this Subpart.
- (e) “Serious bodily injury” shall mean physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ.
- (f) “Sexual contact” shall mean any contact of the sexual or other private parts of another for the purpose of arousing or gratifying sexual desire of either party.
- (g) “Person” shall mean an Indian person.
- (h) “Range management personnel” shall mean the Nature Resource Manager of the BIA or his representative.

M-2 Abduction

(a) A person who willfully takes or entices away:

1. Any child under the age of thirteen (13) years from his parents, guardian or custodian; or
2. Any person from his lawful custodian, or against his will and desire, no lawful right to do so, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to a pay a fine not to exceed one hundred and eighty dollars (\$180.00), or both.

M-3 Aiding and Abetting

(a) When an act is declared an offense under this Code, and no punishment for counseling or aiding in the commission of the act is expressly prescribed by the law, a person who counsels or aids another in the commission of the act is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed the maximum penalty for the offense for which he aided and abetted.

M-4 Assault

(a) A person who unlawfully attempts or threatens to cause bodily injury to another is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed twenty (20) days or to pay a fine not to exceed twenty dollars (\$20.00), or both.

M-5 Battery

(a) A person who:

1. Willfully and unlawfully uses force or violence upon the person of another; or
2. By threatening force or violence, causes another to harm himself; or
3. Recklessly causes physical injury to another is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed five hundred dollars (\$500.00), or both.

M-6 Bigamy

(a) A person who marries another person while having a husband or wife living is guilty of an offense.

(b) Paragraph (a) of this section shall not apply to any person whose husband or wife has been absent for five years, without being known to such person within that time to be living, nor to any person whose former marriage has been dissolved by any court of competent jurisdiction.

(c) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed ninety dollars (\$90.00), or both.

M-7 Bribery – Giving

(a) A person who gives or offers to give to another person money, property or other things of value with intent to influence a public servant in the discharge of his public duties is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed five hundred dollars (\$500.00), or both.

M-8 Bribery – Receiving

(a) A public servant who asks, receives, or offers to receive from another, money, property or other things of value, with intent or upon a promise to be influenced in the discharge of his public duties, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed five hundred dollars (\$500.00), or both.

M-9 Bribery – Soliciting

(a) A person who obtains or seeks to obtain money, property, or other things of value, upon claim or representation that he can or will improperly influence the action of a public servant in the discharge of his public duties is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed five hundred dollars (\$500.00), or both.

M-10 Carrying a Concealed Weapon

(a) A person who has concealed on or about his person a dangerous weapon is guilty of an offense.

(b) A dangerous weapon as used in Paragraph (a) of this section shall include any:

1. Air-gun, blowgun, explosive device, pistol or other firearm;
2. Bayonet, dagger, switchblade, bowie knife, or other kind of knife;
3. Sling shot, club, blackjack or chain;
4. Sword, sword cane or spear;
5. Metal knuckles; or
6. Any other instrument capable of lethal use, possessed under circumstances not appropriate for lawful use.

(c) A folded pocket knife with a blade three inches (3”) or less is not considered a dangerous weapon, except a switchblade.

(d) Paragraph (a) shall not apply to any person authorized by the Pueblo of Pojoaque, tribal, state, federal governments or subdivisions thereof to carry such weapons.

(e) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed sixty dollars (\$60.00), or both.

(f) Any weapons concealed in violation of this section shall be subject to seizure and forfeiture as provided in Subpart H-24.

M-11 Child Molesting

(a) A person who:

1. Engages in sexual intercourse with a person under the age of sixteen (16) years, not his spouse; or
2. Subjects a person under the age of sixteen (16) years, not his spouse, to any sexual contact is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed five hundred dollars (\$500.00), or both.

M-12 Conspiracy

(a) A person is guilty of conspiracy if, with the intent to commit or to have another person commit any action constituting an offense under this Code, he conspires with one or more persons to engage in or cause the commission of such.

(b) No agreement amounts to a conspiracy unless some act besides such agreement is done to affect the object thereof by one or more of the parties to the agreement.

(c) Upon a trial for conspiracy, the defendant shall not be convicted unless one or more overt acts are expressly alleged in the complaint, nor unless one of the acts alleged is provided, but other overt acts not alleged may be given in evidence.

(d) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed five hundred dollars (\$500.00), or both.

M-13 Contributing to the Delinquency of a Minor

(a) An adult person who:

1. Knowingly causes, encourages or advises a minor to commit an offense as defined under the provisions of Subpart L of this Code is guilty of an offense.
2. Knowingly causes, encourages or assists a minor to be delinquent as defined under the provisions of Subpart L of this Code is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed five hundred dollars (\$500.00), or both.

M-14 Criminal Negligence

(a) A person who:

1. Recklessly endangers the safety of another; or
2. Acts with careless disregard for the safety of another is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed sixty dollars (\$60.00), or both.

M-15 Criminal Trespass

(a) A person who:

1. Enters or remains upon any public property for an unlawful purpose; or
2. Without good cause enters, remains upon, or traverses lands or other property not his own, where notice against trespassing has been reasonably communicated by the owner or occupant is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed thirty (30) days or to pay a fine not to exceed thirty dollars (\$30.00), or both.

M-16 Cruelty to Animals

(a) Any person who engages in any of the following acts shall be guilty of violating this Section:

1. Tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates or cruelly kills any animal;
2. Unnecessarily fails to provide any animal with proper food or drink; or
3. Allows any pet to run at large within the exterior boundaries of the Pueblo of Pojoaque.

(b) A person found guilty under this Section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed five hundred dollars (\$500), or both.

(c) Any person who violates this Section shall also be liable for any costs accrued by the Santa Fe County Animal Control Unit.

M-17 Disobedience of Lawful Order of the Court

(a) A person who willfully disobeys any order, subpoena, warrant or command, duly issued by the Pueblo of Pojoaque Tribal Court or any officer thereof is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed fifty (50) days or to pay a fine not to exceed fifty dollars (\$50.00), or both.

M-18 Disorderly Conduct

(a) A person who:

1. Engages in fighting or provokes a fight;
2. Disrupts any lawful public or religious meeting;
3. Causes unreasonable noise; or
4. Uses language or gestures knowing them to be obscene or likely to provoke a fight, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed sixty dollars (\$60.00), or both.

M-19 Disposing of Property of an Estate

(a) A person who, without proper authority, uses, sells, transfers, or otherwise disposes of any property of an estate before determination of devisees, heirs, or other distributees is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed ninety dollars (\$90.00), or both.

M-20 Escape

(a) A person who willfully escapes, attempts to escape, or assists in an escape from lawful custody is guilty of an offense.

(b) "Lawful Custody" shall mean confinement by court order or actual or constructive restraint by a police officer pursuant to an arrest.

(c) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed one hundred and eighty dollars (\$180.00), or both.

M-21 Extortion

(a) A person who compels or induces another person to deliver property to himself or to a third person by threatening that if the property is not delivered, the actor or another will:

1. Cause physical injury to some person;
2. Cause damage to property;
3. Accuse some person of a crime or cause criminal charges to be instituted against some person;
4. Expose a secret or publicize an asserted fact, whether true or false; tending to subject some person to hatred, contempt or ridicule;
5. Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or
6. Use or abuse his position as a public servant by performing some act within or related to his official duties or by failing or refusing to perform an official duty in such manner as to affect some person adversely is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed five hundred dollars (\$500.00), or both.

M-22 Failure to Submit to Treatment for a Contagious Disease

(a) A person who knows or has reason to know that he is infected with a venereal disease, active tuberculosis or other contagious disease and who willfully exposes another to the disease, in a place other than a medical facility, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and twenty (120) days; provided, that such sentence shall be suspended if the offender agrees to medical treatment.

(c) The Court upon finding reasonable cause to believe that a person has any contagious diseases may order the person examined. If, upon examination, the person is found to be infected with any of the aforementioned diseases, the Court may order the person to submit to medical treatment as prescribed by competent medical authority.

M-23 Failure to Send Children to School

(a) A person who, without good cause, fails or refuses to send his children or any children under his care to school, while such children are between the ages of six (6) and sixteen (16), is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed sixty dollars (\$60.00), or both.

M-24 Failure to Support

(a) A person who knowingly and without justification fails to support, care for, or protect a spouse, child or other person for whose support he is responsible is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed ninety dollars (\$90.00), or both.

M-25 Forgery

(a) A person who, with intent to defraud:

1. Falsely signs, completes or alters any written instrument;
2. Passes as genuine that which he knows to be a forged instrument is guilty of an offense.

(b) "Forged instrument" shall mean a written instrument which has been falsely signed, completed or altered.

(c) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed one hundred and eighty dollars (\$180.00), or both.

M-26 Fraud

(a) A person who obtains property:

1. By willful misrepresentation of fact; or
2. By falsely interpreting; or
3. By failure to reveal facts which he knows should be revealed with intent to defraud another of such property is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed one hundred and eighty dollars (\$180.00), or both.

M-27 Gambling

(a) A person who knowingly stakes or risks a thing of value in a game of chance upon an agreement or understanding that he or some other person may receive something of value depending on the outcome is guilty of an offense.

(b) Under Paragraph (a) of this section, “bingo,” raffles and lotteries shall not be considered games of chance when conducted by religious or charitable organizations authorized by the Tribal Council to conduct such games.

(c) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed twenty (20) days or to pay a fine not to exceed twenty dollars (\$20.00), or both.

M-28 Unlawful Restraint

(a) A person who unlawfully causes the removal, detention or confinement of another person, so as to interfere with that person’s liberty is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed one hundred and eighty dollars (\$180.00), or both.

M-29 Indecent Exposure

(a) A person who willfully exposes his or her sexual organs to public view under circumstances in which he or she knows or should know such conduct is likely to offend others is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed thirty (30) days or to pay a fine not to exceed thirty dollars (\$30.00), or both.

M-30 Inhaling Toxic Vapors

(a) A person who inhales the vapors or fumes of paint, gas, glue or other toxic products for the purpose of becoming intoxicated is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed sixty dollars (\$60.00), or both.

M-31 Interfering with an Officer

(a) A person who willfully prevents or attempts to prevent a police officer from effecting an arrest or from otherwise discharging his official duty by:

1. Creating a substantial risk of bodily harm to the officer or any other person; or
2. Employing means of resistance which justify or require substantial force to overcome, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed sixty dollars (\$60.00), or both.

M-32 Joyriding

(a) A person who, without proper authority operates, or otherwise uses any vehicle not his own, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed thirty (30) days or to pay a fine not to exceed thirty dollars (\$30.00), or both.

M-33 Liquor Violation

(a) Any unlicensed person who possesses, sells, trades, transports or manufactures any beer, ale, wine, whiskey or any other beverage which produces alcoholic intoxication is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed one hundred dollars (\$100.00), or both.

M-34 Littering

(a) A person who intentionally:

1. Discards or deposits any trash, garbage, debris or other refuse upon any land not his own; or
2. Permits any trash, garbage, debris or other refuse to be thrown from a vehicle which he is operating is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed thirty (30) days or to pay a fine not to exceed thirty dollars (\$30.00), or both.

M-35 Maintaining a Public Nuisance

(a) A person who:

1. Endangers the health or safety of another; or
2. Interferes with the enjoyment or property of another, by willfully or negligently permitting a hazardous, unsightly or unhealthy condition to exist on property under his possession or control is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ten (10) days or pay a fine to exceed ten dollars (\$10.00), or both.

(c) In addition to any penalty imposed under Paragraph (b) of this section, the Court shall order that the nuisance be abated within a reasonable time.

M-36 Misusing Property

(a) A person who, without proper authority, knowingly uses or damages any property not his own is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed twenty (20) days or to pay a fine not to exceed twenty dollars (\$20.00), or both.

M-37 Narcotics and Dangerous Drugs

Repealed on January 28, 2010.

M-38 Perjury

(a) A person who knowingly makes a false statement while under oath, or who induces another to do so, or who signs an affidavit knowing the same to be false is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed one hundred and eighty dollars (\$180.00), or both.

M-39 Possession of Marijuana

Repealed on January 28, 2010.

M-40 Prostitution

(a) A person who:

1. Solicits or practices prostitution; or
2. Knowingly provides, keeps, rents, leases or otherwise maintains any place or premises for the purpose of prostitution is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed seventy (70) days or to pay a fine not to exceed seventy dollars (\$70.00), or both.

M-41 Public Intoxication

(a) A person who appears in a public place while under the influence of alcohol, marijuana, toxic vapors or substances, the use or possession of which is prohibited under M-56 of Subpart M of this Code, not therapeutically administered, to the degree that he may reasonably endanger himself or other persons or property is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed sixty dollars (\$60.00), or both.

M-42 Receiving Stolen Property

(a) A person who buys, receives, conceals or aids in concealing any property which he know or should know has been obtained by theft, extortion, fraud or other means constituting an offense under the provisions of this Code is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed sixty dollars (\$60.00), or both.

M-43 Refusing to Aid an Officer

(a) A person who willfully refuses to assist a police officer:

1. In the lawful arrest of any person; or
2. In conveying a lawfully arrested person to the nearest place of confinement, when such assistance is reasonably requested is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed fifty (50) days or to pay a fine not to exceed fifty dollars (\$50.00), or both.

M-44 Removal or Destruction of Antiquities

(a) A person who, without proper authority, removes, excavates, injures or destroys any historic or prehistoric ruin or monument or any object of antiquity is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed five hundred dollars (\$500.00), or both.

M-45 Shoplifting

(a) A person who willfully takes possession of any goods offered for sale by any mercantile establishment without the consent of the owner or manager with the intent to convert such goods to his own use without paying for them is guilty of an offense.

(b) A person who willfully conceals or attempts to conceal any goods offered for sale:

1. On the person or among his belongings; or
2. On the person, or among the belongings of another, is presumed to have taken possession of such goods with the intent to convert them to his own use without paying for them.

(c) A police officer, merchant or merchant's employee who has reasonable cause to believe that a person has willfully taken possession of goods with the intent to convert them without paying for them may detain and interrogate the person in regard thereto in a reasonable manner and for a reasonable time.

(d) If a police officer, merchant or merchant's employee detains and interrogates a person pursuant to Paragraph (c) of this Section and the person thereafter brings civil or criminal action against the police officer, merchant or merchant's employee, based upon the detention and interrogation, such reasonable cause shall be a defense to the action, if the detention and interrogation were performed in a reasonable manner for a reasonable time.

(e) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed thirty (30) days or to pay a fine not to exceed thirty dollars (\$30.00), or both.

M-46 Theft

(a) A person who unlawfully takes or exercises control over property not his own, whether or not possession was originally obtained with consent of the owner, with the intent of permanently depriving the owner of the value or use of the property, for the benefit of himself or another is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed five hundred dollars (\$500.00), or both.

M-47 Unlawful Burning

(a) A person who:

1. Willfully and unlawfully causes or attempts to cause damage to any property by fire or explosion;
2. Negligently causes damage to any property by fire or explosion; or
3. Sets fire to any forest, brush or grasslands, or sets a campfire with careless disregard for the spread or escape of such fire, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and twenty (120) days or to pay a fine not to exceed one hundred and twenty dollars (\$120.00), or both.

M-48 Malicious Mischief

Any person who shall maliciously disturb, injure or may destroy livestock or other domestic animal, or other property shall be deemed guilty of malicious mischief and upon conviction thereof shall be sentenced to labor for a period not to exceed six (6) months.

M-49 Driving Under the Influence of Intoxicating Liquor or Drug

(a) It is unlawful for any person who is under the influence of intoxicating liquor or drug to drive any vehicle within the exterior boundaries of the Pueblo of Pojoaque.

(b) Proof of intoxication shall be based upon evidence of intoxication presented to the Court.

(c) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one (1) year or to pay a fine not to exceed five thousand dollars (\$5,000), or both.

M-50 Possession of a Weapon While Under the Influence of Intoxicating Liquor or Drug

(a) It is unlawful for any person who is under the influence of intoxicating liquor or drug to carry a weapon while they are within the exterior boundaries of the Pueblo of Pojoaque.

(b) Proof of intoxication shall be based upon evidence of intoxication presented to the Court.

(c) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one (1) year or to pay a fine not to exceed five thousand dollars (\$5,000), or both.

M-51 Shooting in Residential Areas

(a) If there is probable cause of persons (Tribal Members or Non-Tribal Members) who are firing guns (weapons) in the Residential areas, a search warrant will be executed, and all guns (weapons) will be confiscated and tested. If they are found to have been fired recently the person(s) will be dealt with by the following:

1st Offense- Five thousand dollar (\$5,000) fine plus one (1) year banned from Pueblo.

2nd Offense- Five thousand dollar (\$5,000) fine plus five (5) years banned from Pueblo.

(b) Tribal Members will also lose Tribal benefits for the amount of time banned from Pueblo.

M-52 Threats or Physical Harm to Elected or Appointed Officials

(a) Any person who threatens physical harm or commits an act of physical harm to an elected or appointed Pueblo of Pojoaque Tribal Official or a person conducting the official duties of the Pueblo of Pojoaque Tribal government shall be subject to this section.

1. An elected or appointed Pueblo of Pojoaque Tribal Official is defined as any person who is elected or appointed by the Pueblo of Pojoaque General Council or Tribal Council to carry out duties on behalf of the Pueblo of Pojoaque.

2. A person conducting the official duties of the Pueblo of Pojoaque Tribal Government is defined as any person who is appointed by the Pueblo of Pojoaque to carry out official Tribal government duties.

3. A threat of physical harm is defined as any verbal or written threat of physical harm against a Tribal Official that is communicated to a third party.

4. An act of physical harm is defined as any intentional bodily touching of a Tribal Official that is intended to harm the Tribal Official.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed three hundred and sixty five (365) days or to pay a fine not to exceed five thousand dollars (\$5,000), or both.

M-53 RESERVED

M-54 Disenrollment Policy for Enrolled Members Convicted of Trafficking

(a) For the purposes of this Section,

1. “Trafficking in Illegal Drugs” is defined as a criminal conviction in any Tribal, Federal, or State Court for trafficking, selling, or intending to sell illegal drugs.
2. “Illegal Drugs” is defined as any drug, the possession of which is prohibited by Federal law. “Illegal drugs” is also defined as any legal drug, the possession of which is illegal when it is not prescribed by an authorized, licensed physician.

(b) Upon evidence of conviction of “Trafficking in Illegal Drugs,” the Tribal Secretary shall report to the Tribal Council that the Pueblo of Pojoaque enrolled Member is disenrolled and excluded from the Pueblo of Pojoaque for life.

(c) The disenrollment shall become effective the day of the conviction.

M-55 Trafficking in Illegal Drugs

(a) “Trafficking” is defined as the intention to sell illegal drugs or the selling of illegal drugs.

(b) “Illegal drugs” is defined as any drug, the possession of which is prohibited by Federal law. “Illegal drugs” is also defined as any legal drug, the possession of which is illegal when it is not prescribed by an authorized, licensed physician.

(c) “Intention to sell illegal drugs” may be determined when there are indicators of sales of illegal drugs. Indicators may include, when found in combination with the illegal drugs, that there are sufficient quantities of illegal drugs for sale purposes, amount of cash indicating the intent to sell, weapons, or paraphernalia such as scales, baggies or written notations. The Tribal Judge shall determine whether the indicators are sufficient to indicate an intent to sell illegal drugs.

(d) “Sale” is defined as the exchange of cash, or bartering, for illegal drugs.

(e) The penalties for trafficking in illegal drugs may include imprisonment for a period not to exceed three hundred and sixty five (365) days or to pay a fine not to exceed five thousand dollars (\$5,000), or both.

(f) The Tribal Police may petition the Tribal Court for forfeiture of any indicators of trafficking.

M-56 Dangerous Drugs Policy

(a) “Dangerous drugs” are defined as any drug, the possession of which is prohibited by Federal and State law. “Dangerous drugs” also includes any legal drug, the possession of which is illegal when it is not prescribed by an authorized, licensed physician.

(b) Any person who illegally possesses, uses, abuses, gives away, manufacturers or sells dangerous drugs is guilty of a criminal offense.

(c) Any person who harbors a person who possesses, uses, abuses, gives away, manufacturers or sells dangerous drugs is guilty of a criminal offense.

(d) Any person who illegally possesses paraphernalia used in the manufacturing, injection, ingestion, smoking or introduction into the body of a dangerous drug is guilty of a criminal offense.

(e) Any person arrested for possession, using, abusing, giving away, manufacturing, or selling dangerous drugs or paraphernalia used in relation to dangerous drugs shall undergo mandatory drug testing at the time of arrest. Law enforcement shall present such findings to the Court and Tribal Officials at the time of arraignment.

(f) Any person who is convicted under this Section may be sentenced to a maximum of three hundred and sixty five (365) days of incarceration or a five thousand dollar (\$5,000) fine, or both and may be excluded by the Tribal Court from entering the exterior boundaries of the Pueblo of Pojoaque.

(g) The Tribal Council shall consider in sentencing that the Tribal Council prefers that offenders are sentenced to treatment when the offender shows remorse and is willing and ready to undergo treatment.

(h) Upon evidence of conviction of “Trafficking in Illegal Drugs,” the Tribal Secretary shall report to the Tribal Council that the Pueblo of Pojoaque enrolled Member is disenrolled and excluded from the Pueblo of Pojoaque for life.

(i) The disenrollment shall become effective the day of the conviction.

M-57 Heroin Control Act

(a) The Pueblo of Pojoaque has a zero tolerance policy of heroin and intravenous use of illegal drugs. This policy includes civil and criminal prohibitions and adoption of medical treatment approaches to combat the problem to protect the community and families.

(b) The Heroin Control Act supersedes all prior conflicting provisions concerning heroin and intravenous use of illegal drugs that are contained in the Tribal Law and Order Code regulations and ordinances, lease agreements or employee handbooks.

(c) A copy of the Heroin Control Act of 2012 shall be made available to all enrolled Members of the Pueblo of Pojoaque.

(d) Heroin and Intravenous Use of Illegal Drugs.

1. Any person who buys, possesses, sells or uses heroin within the exterior boundaries of the Pueblo of Pojoaque shall be considered a threat to the public health, safety and welfare.

2. Any person who admits to or is arrested for heroin or intravenous use of illegal drugs within the exterior boundaries of the Pueblo of Pojoaque shall be considered a threat to the public health, safety and welfare and shall undergo mandatory drug testing at the time of arrest. Law enforcement shall present such findings to the Court and Tribal Officials at the time of arraignment.

3. Any person who is found guilty in any court of law of heroin or intravenous use of illegal drugs shall be considered a threat to the public health, safety and welfare.

4. Any Tribal Police Officer who suspects a person of heroin use or intravenous use of illegal drugs may petition the Tribal Court for scientific testing of the suspected user.

5. Any allegation of suspicion shall be supported by written and verified facts before scientific testing is ordered by the Tribal Court.

(e) Penalties.

1. Any person who is a threat to the health, safety and welfare of the Pueblo of Pojoaque under the provisions of this Section shall be subject to the following penalties:

A. An Indian found guilty of violating this Section may be sentenced to imprisonment for a period not to exceed one (1) year or to pay a fine not to exceed five thousand dollars (\$5,000), or both, per violation.

B. Exclusion from the exterior boundaries of the Pueblo of Pojoaque for a duration to be determined by the Tribal Court.

C. Immediate termination of employment and Tribal benefits for a duration to be determined by the Tribal Court.

D. The violator may be responsible for payment of treatment costs.

E. A neglected child adjudication of unlimited duration for any parent of an Indian child when the parent is a threat to the public health, safety and welfare under the provisions of this Section.

(f) Rescission of Penalties.

1. The Tribal Court shall provide a written Order to the person who is determined to be a threat to the public health, safety and welfare. The Order shall set out the conditions under which any of the penalties imposed may be rescinded.

2. In the case of neglected child adjudication, the parent has two (2) years in which to successfully comply with the Tribal Court's Order. If the parent has not successfully complied with the Tribal Court's Order within two (2) years, termination of parental rights shall be initiated by the Pueblo of Pojoaque Social Services Department. The two (2) years may be extended by the Tribal Court with a written justification for the extension.

Subpart N Land, Livestock and Area Regulations

N-1 Cutting Green Timber without Permission

(a) A person who cuts or removes any green timber from lands within the Pueblo without written permission from the Governor or his representative is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed thirty (30) days or to pay a fine not to exceed thirty dollars (\$30.00), or both.

N-2 Branding Livestock of Another

(a) A person who:

1. Willfully brands or marks an animal with a brand or mark other than the recorded brand or mark of the owner of the animal; or
2. Willfully alters or obliterates any brand or mark on any animal not his own, with intent to convert the animal to his or some third person's use, without the consent of the owner is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed five hundred dollars (\$500.00), or both.

N-3 Failure to Control Livestock – Diseases or Parasites

(a) A person who willfully refuses to dip or treat any livestock under his ownership or control in accordance with orders or directions initiated by authorized range management personnel of the Pueblo or BIA is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed one hundred dollars (\$100.00), or both.

N-4 Game Violation

(a) A person who knowingly kills, attempts to kill or catches any deer or game animal within the Pueblo without the written permission from the Governor or his representatives is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed thirty (30) days or to pay a fine not to exceed one hundred dollars (\$100.00), or both.

(c) "Game animal" shall mean any animal for which the Pueblo of Pojoaque requires a Tribal permit to hunt, kill or catch.

N-5 Grazing, Introduction without a Permit

(a) A person who:

1. Knowingly permits livestock under his ownership or control to graze upon lands within the Pueblo, without a valid permit issued by an authorized range management personnel; or
2. Willfully introduces or causes the introduction of any livestock into lands within the Pueblo not allocated, without a valid permit issued by authorized range management personnel is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed one hundred dollars (\$100.00), or both.

N-6 Making False Reports of Stock Owned

(a) A person who:

1. Knowingly makes a false report as to the total number of stock under his ownership or control; or
2. Willfully refuses to report the number of stock under his ownership or control, when required or requested by authorized range management personnel is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed one hundred dollars (\$100.00), or both.

N-7 Refusal to Brand or Mark Livestock

(a) A person who willfully refuses to brand or mark any livestock under his ownership or control, when required or requested by authorized range management personnel, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed one hundred dollars (\$100.00), or both.

N-8 Refusal to Dispose a Cull or Infected Animal

(a) A person who willfully refuses to dispose of or remove any cull or infected animal designated for disposal or removal by authorized range management personnel is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed one hundred dollars (\$100.00), or both.

N-9 Unauthorized Use of Range

(a) A person who willfully:

1. Grazes livestock under his ownership or control in the Pueblo in excess of the number allowed under his grazing permit; or
2. Refuses to graze livestock under his ownership or control in accordance with plans made public by authorized range management personnel, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed one hundred dollars (\$100.00), or both.

N-10 Unauthorized Fencing

(a) A person who fences any land knowing such fencing is not authorized by range management personnel is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed one hundred dollars (\$100.00), or both.

N-11 Violation of Regulation

(a) A person who willfully violates or refuses to comply with lawful orders and directions issued by the Secretary of the Interior or his representatives for the purpose of regulating the use or occupancy of the Pueblo is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed one hundred dollars (\$100.00), or both.

N-12 Other Actions not Precluded

The arrest, conviction or sentencing of any person for violating any provision contained in this Subpart shall not preclude impoundment, seizure or other authorized action taken by management personnel for the enforcement of regulation for, or of the Pueblo of Pojoaque.

N-13 Pit Bull and Staffordshire Terriers Regulations

- (a) Pit Bull and Staffordshire Terrier breeds are considered dangerous.
- (b) It is illegal for anyone living on the Pueblo to own, keep, or otherwise allow to enter within the exterior boundaries of the Pueblo, dogs of Pit Bull or Staffordshire Terrier breed.
- (c) Pit Bull and Staffordshire Terrier Breeds owned by a Tribal Member and residing within the exterior boundaries of the Pueblo of Pojoaque as of September 13, 2012 may remain upon proof by the owner of the following conditions:
1. Microchip. Every Pit Bull or Staffordshire Terrier breed grandfathered in under this Section shall be microchipped at the owner's expense.
 2. Registration. Every owner of a Pit Bull or Staffordshire Terrier breed shall register the dog with the Pueblo of Pojoaque Tribal Police or the Tribal Court. The registration should include the following:
 - A. Name, address and telephone number of the dog's owner;
 - B. The address where the dog is kept, if different from the owner's address;
 - C. A complete identification of the dog including the dog's sex, color and any other distinguishing physical characteristics;
 - D. A photograph of the dog; and
 - E. Proof of microchip.
- (d) Failure to register a Pit Bull or Staffordshire Terrier breed as required by this Section shall be evidence that the dog is a newly acquired dog.

N-14 Animal Control Regulations

- (a) Violations of animal control regulations are subject to criminal proceedings under Subpart M-16.
- (b) Any Indian who:
1. Tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates or cruelly kills any animal; or
 2. Who unnecessarily fails to provide any animal with proper food or drink; or
 3. Who allows any pet to run at large within the exterior boundaries of the Pueblo of Pojoaque shall be guilty of violating the Animal Control Regulations.

(c) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed five hundred dollars (\$500), or both. In addition, anyone who violates the Animal Control Regulations shall be liable for any costs accrued by the Santa Fe County Animal Control Unit.

(d) All pets must be confined to a fenced yard, tied or on a leash at all times. The owner of an animal is responsible for all damage or harm caused by the animal. It shall be no defense that an animal escaped its restraint.

(e) If a pet is loose, Tribal Police will be called and Animal Control will pick up the animal. The owner of the animal will be billed for all costs of picking up and boarding the animal. If needed, the impound fee will be paid by garnishment of wages.

N-15 Vicious Animal Ordinance

(a) It is unlawful for any person within the Pueblo of Pojoaque to keep or harbor a known vicious animal. Any attack by a vicious animal or any animal displaying traits of a vicious animal may be repelled by the use of reasonable force.

(b) A vicious animal includes any animal who bites, has bitten, or in any manner attacks or bites any person. A vicious animal also includes any animal which, unprovoked, kills or maims any animal owned by a person.

(c) Any animal shall not be deemed vicious if any animal bites, or in any manner attacks or bites any person when provoked by a person who trespasses upon the owner's premises.

(d) After a Tribal Court determination that an animal is vicious, the Tribal court shall order the animal removed immediately from the Pueblo of Pojoaque. The Tribal Court may also order the animal destroyed.

Subpart O Traffic Violations

O-1 New Mexico State Motor Vehicle Code Incorporated

(a) A person who violates any of the provisions of the New Mexico State Motor Vehicle Code pertaining to traffic on highways, as amended to the date of the offense, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed fifty (50) days or to pay a fine not to exceed one hundred dollars (\$100.00), or both.

O-2 Enactment of the Civil Traffic Code

(a) The civil traffic code (“Traffic Code”) applies to any person—Indian or Non-Indian—within the exterior boundaries of the reservation. The Pueblo of Pojoaque Tribal Police are authorized to administer and enforce the Traffic Code on the Pueblo.

(b) The Tribal Police may enforce the Traffic Code by stopping a vehicle and offering the driver or occupant the option of electing to pay a fee established by the Tribal Council for the commission of prohibited activities as reflected on a written citation, or if the person declines to elect to pay the fee, issue a notice for a person to appear in Tribal Court.

(c) The Tribal Police may notify in writing the insurance carrier of any person who is cited for committing an act or omission prohibited by the Traffic Code and who fails to properly pay such citation within thirty (30) days or timely appear in Tribal Court as requested.

O-3 Reservation of Civil Jurisdiction in Highway Construction Rights of Way

(a) The Tribal Council authorizes and accepts State Highway Right of Way Applications.

(b) All such agreements concerning highway rights of way shall include a Special Terms and Provisions clause, which shall read as follows:

The safety and protection of visitors passing through the Pueblo is paramount. To that end, the Pueblo expressly retains its civil jurisdiction over the right-of-way, except, for consideration paid to the Pueblo, the Pueblo expressly grants to the State Highway and Transportation Department the exclusive right to regulate the following in this right-of-way. (1) highway design, (2) highway construction, (3) highway maintenance, (4) management of access and driveway permits, (5) accommodation of utilities, (6) installation of traffic control devices, traffic safety measures, and posting of speed limits, (7) motor vehicle regulations in size, weight and licensing, (8) setting of speed limits, (9) toll roads, subject to federal law, and (10) road closures, subject to federal law, and other permits to use the right-of-way.

The Pueblo may temporarily or partially close the highway to be constructed on the easement to be granted by this Agreement for religious and tribal ceremonies by applying to the Department for a permit to use the right of way for non-highway purposes. The Department

shall not unreasonably withhold such permission so long as the Pueblo meets the requirements of such procedures and there are no public safety problems remaining.

O-4 Prohibiting the Use of Jake Brakes

The use of Jake Brakes is prohibited within the Pueblo of Pojoaque boundary.

O-5 All-Terrain Vehicles (ATVs), Motorbikes and Off-Highway Vehicles

(a) All-Terrain Vehicles (ATVs), Motor Bikes and Off-Highway Vehicles (e.g., dune buggies) are banned in residential and business areas within the exterior boundaries of the Pueblo of Pojoaque without prior permission from the Tribal Council.

(b) Go-Karts are not considered “off-highway” vehicles and are allowed on the Pueblo as long as the proper rules are abided when driving or riding in them (e.g., persons under the age of 18 years are required to wear a safety helmet and Go-Karts may be operated adjacent to a road way, as long as the speed does not exceed the speed limit of 15 mph).

(c) First offense: Five hundred dollar (\$500) fine and impoundment of vehicle
Second offense: One thousand dollar (\$1,000) fine and confiscation of vehicle

O-6 Highway Construction Ordinance to Double Civil Traffic Fines

Any civil traffic violations occurring within posted highway construction areas are subject to a doubling of the civil traffic violation fines as approved by the Tribal Council.

O-7 Highway Safety Corridor Fines for State Road 502

The segment of State Road 502 within the exterior boundaries of the Pueblo of Pojoaque is recognized as a State of New Mexico Highway Safety Corridor. All Tribal Law and Order civil traffic citation fines shall be doubled within this Highway Safety Corridor.

O-8 Confiscation of Unregistered/Uninsured Motor Vehicles

(a) No driver shall permit the operation of an unregistered motor vehicle within the exterior boundaries of the Pueblo of Pojoaque, unless the vehicle has been exempted from the provisions of this Ordinance by the Tribal Council.

(b) No driver shall operate an uninsured motor vehicle within the exterior boundaries of the Pueblo of Pojoaque, unless the vehicle has been exempted from the provisions of this Ordinance by the Tribal Council.

(c) If the Pueblo of Pojoaque Tribal Police finds a driver operating an unregistered and uninsured motor vehicle, the Tribal Police shall immediately have the vehicle towed or driven to the Tribal Police impound lot where the vehicle shall remain until a Tribal Court hearing.

(d) If the offender does not provide proper registration and insurance during the Tribal Court hearing, the Tribal Court may allow the offender an extension in order to provide proper registration and insurance.

(e) If, sixty (60) days after the confiscation, the driver or owner of the vehicle does not claim the vehicle, or does not appear at a scheduled Tribal Court hearing, and the vehicle is not reported as stolen, the vehicle shall be considered abandoned.

(f) The Tribal Court shall forward a report of all abandoned vehicles for the Tribal Council's disposition.

O-9 Schedule of Fines for Civil Traffic Citations

NAME OF OFFENSE	STATE STATUTE REFERENCED	MAX FINE
Permitting unlicensed minor to drive	66-5-40	\$60.00
Failure to obey sign	66-7-104	\$60.00
Failure to obey signal	66-7-105	\$60.00
Speeding Fines (double in Safety Corridor and Construction Zone)	66-7-301	
1 to10		\$65.00
11 to 15		\$80.00
16 to 20		\$115.00
21 to 25		\$150.00
26 to30		\$175.00
31 to 35		\$200.00
36 and over		\$250.00
Seatbelt	66-7-372	\$75.00
Child restraint	66-7-369	\$75.00
Impeding traffic	66-7-305	\$60.00
Improper starting	66-7-324	\$60.00
Improper backing	66-7-354	\$60.00
Improper lane	66-7-308,313,316,317,319	\$60.00
Improper passing	66-7-309,312,315	\$60.00
Controlled Access	66-7-320,321	\$60.00
Improper turning	66-7-322,323,325	\$60.00
Following too closely	66-7-318	\$60.00
Failure to yield at intersection	66-7-328,332	\$60.00
Failure to yield	66-7-332.1	\$75.00
Pedestrian violation	66-7-333,340	\$60.00
Failure to stop	66-7-341, 346	\$60.00
Passing school bus while lights flashing	66-7-347	\$1,000.00
Failure to signal	66-7-325-327	\$60.00
Failure to secure load	66-7-407	\$150.00

Operation without oversize/ overweight permit	66-7-413	\$100.00
Improper equipment	66-3-801	\$60.00
Improper equipment-unsafe vehicle	66-3-901	\$70.00
Improper emergency signal	66-3-853-857	\$60.00
Obstructed view	66-7-347	\$55.00
Littering (1 st offense + 1 mile)	30-8-4	\$500.00
Littering (2 nd offense + 2 miles)	30-8-4	\$1,000.00
Improper parking	66-7-349-353	\$55.00
Improper parking	66-3-852	\$55.00
Handicapped parking	66-7-352.5	\$100.00
Failure to dim lights	66-3-831	\$60.00
Riding in or towing occupied house trailer	66-7-366	\$55.00
Improper opening of doors	66-7-367	\$55.00
Slow moving emblem /light	66-3-887	\$55.00
Open container 1 st offense	66-8-138	\$100.00
Operating vehicle w/o valid driver's license	66-5-2	\$55.00
Operating vehicle w/o current insurance	66-5-205	\$55.00
Refusing to comply w/ direction of a law enforcement officer or elected tribal official		\$500.00 to \$1,000.00
Threatening health, safety, or welfare of law enforcement officer or elected tribal official		\$500.00
Failure to comply w/pedestrian rules		\$100.00
Failure to wear helmet or safety equipment on motorcycle	66-7-356	\$55.00
Negligently permitting livestock on highway	66-7-363	\$55.00
Throwing or placing items on street	66-7-364	\$50.00 to \$100.00
Defacing or altering street or highway signs	66-7-109	\$100.00
Careless driving (not resulting in death)	66-8-114	\$250.00 to \$1,000.00
Driving with suspended or revoked driver's license	66-5-39	\$250.00 to \$1,000.00
Failure to provide proof of insurance to court	66-5-205	\$150.00
Driving without valid registration at time of violation	66-3-1	\$55.00
Failure to provide registration at time of court		\$300.00
Failure to provide valid driver's license to court		\$150.00
Providing false identification		\$150.00
Fake license plate		\$500.00
COMMERCIAL TRUCK VIOLATIONS		
Failure to obtain proper clearance certificate	Repealed	\$150.00
Failure to register Interstate motor carrier PRC	65-2A-16	\$100.00
Failure to register carrier	65-1-26	\$150.00
Failure to stop at designated reg. Place	Repealed	\$150.00

Failure to comply w/PRC rules and regulations	65-1-36	\$100.00
Operation w/o oversize/overweight permit	66-7-413	\$100.00
Oversize loads	66-7-401	\$75.00 to \$550.00

Subpart P Removal and Exclusion

P-1 Who May be Removed

Any person, not a Member of the Pueblo of Pojoaque who commits any act, which would be a crime under State or Federal Law, or who violates any provision of this Code may be:

- (a) Asked to leave the Pueblo, or
- (b) Taken into custody for delivery to State or Federal authorities for prosecution under State or Federal statutes, by a duly authorized police officer of the Pueblo.

P-2 Hearing, Removal and Release

(a) A person, not a Member of the Pueblo of Pojoaque, asked to leave the Pueblo by a police officer may request a hearing before the Tribal Court.

(b) Upon a finding based upon a preponderance of the evidence that the person asked to leave the Pueblo committed a crime under State or Federal Law or violated a provision of this Code, the Tribal Court may:

- 1. Order the person to leave the Pueblo; or
- 2. Order the person to comply, under penalty or removal, with the requirements of a Court order.

(c) If the Court finds that the person asked to leave the Pueblo did not commit the acts alleged, it shall so instruct the police officer.

P-3 Delivery to State or Federal Authorities

Any person ordered by the Court to leave the Pueblo may:

- (a) Be escorted under custody of a police officer to the exterior boundaries of the Pueblo; or
- (b) Be delivered into the custody of the State or Federal authorities for prosecution under State or Federal law.

P-4 Illegal Aliens & Unauthorized Persons

It is the policy of the Tribal Council to exclude illegal aliens from the Pojoaque Pueblo Land Grant. Any such individuals currently residing within the Pueblo will have to leave by May 9, 1982. These individuals will not be allowed on the Pueblo at any time.

(a) Anyone residing in the Pueblo having illegal aliens or unauthorized persons living with them will be subject to immediate Tribal Court action.

(b) It is the responsibility of each Tribal Member to enforce this Tribal Ordinance by bringing these offenders to the Tribal Court.

(c) Failure to obey Council orders will result in Tribal Court action.

P-5 Household Residency Restrictions

Tribal Members will not be allowed to have anyone other than their immediate family living with them.

P-6 RESERVED

P-7 Orders of Exclusion/Removal of Non-Members

(a) Inherent Power to Exclude.

1. The Pueblo of Pojoaque has used its traditional, inherent powers in the past to exclude and/or remove non-members from the exterior boundaries of the Pueblo of Pojoaque. The Tribal Officials and the Pueblo of Pojoaque Tribal Court are authorized to exclude and/or remove non-members from entering the exterior boundaries of the Pueblo of Pojoaque.

2. The inherent power of Indian tribes to exclude and/or remove non-members has been recognized and affirmed by American courts.

3. Exclusion and/or removal means the temporary or permanent expulsion of an individual from within the exterior boundaries of the Pueblo of Pojoaque or any part of the exterior boundaries.

(b) Persons and Grounds for Exclusion or Removal.

1. All persons, except those authorized by federal law to be present within the Pueblo, may be excluded or removed. Any person who owns or works on non-Indian fee land may be excluded from the Pueblo as long as they are not denied access to or use of such property.

2. A person may be subject to expulsion or removal if they pose a threat to the health, safety or welfare of a Tribal Member or if their conduct substantially threatens or has a direct effect on the political integrity, institutional process, economic security of the Pueblo, a member of the Pueblo, a resident, an employee, or a visitor to the Pueblo of Pojoaque.

(c) Procedure and Required Hearings.

1. A Tribal Official may order the immediate removal or expulsion of any person at any time. The Order shall be reviewed by the Pueblo of Pojoaque Tribal Court to

ensure due process and to determine the extent and duration of the removal or exclusion.

2. The Pueblo of Pojoaque Tribal Court may, as part of a Court proceeding, on its own motion, or on a petition filed in the Court, consider the removal or expulsion of any person.

3. The Court shall consider the patterns of misconduct, the circumstances of each act, and the significance of each act in issuing an Exclusion and/or Removal Order.

4. The Court shall ensure that due process is afforded all parties subject to an Exclusion and/or Removal Order. The Order shall include the duration and scope of the exclusion and/or removal.

5. Emergency and temporary Orders may be issued by either a Tribal Official or the Court.

6. All decisions by the Pueblo of Pojoaque Tribal Court shall be considered final.

(d) Enforcement.

Any person who violates an Order of Exclusion and/or Removal may be subject to the following:

1. The Court may direct a Tribal police officer to remove the violator from the Pueblo at the violator's expense.
2. The Court may direct a Tribal police officer to prevent the violator from reentering the Pueblo.
3. The Court may direct a Tribal police officer to refer the matter to the United States Attorney or to the New Mexico District Attorney for appropriate action.
4. The Court may direct a Tribal police officer to refer the matter to the Pueblo of Pojoaque for appropriate civil or criminal action through the Tribal Law and Order Code.

P-8 Exclusion of Sexual Offenders

(a) A sexual offender shall be considered as any Indian found guilty of a sex offense crime or any Indian who had been found more likely than not to have committed a sex offense against another person, and those findings of guilt or findings of more likely than not have determined by any Tribal, Federal or State Court.

(b) Sexual offenders shall be permanently excluded from entering the exterior boundaries of the Pueblo of Pojoaque.

P-9 Exclusion from Entering Gaming Facilities and Parking Areas

(a) Gaming on the Pueblo of Pojoaque is a privilege, not a right.

(b) Persons and Grounds for Exclusion.

1. Any person whose conduct is undesirable may be excluded from the Pueblo of Pojoaque gaming facilities and parking areas.
2. Undesirable conduct includes, but is not limited to: causing a public disturbance, fighting, stealing, disorderly conduct, panhandling, suspicion of card counting, cheating, fraud, intoxication, theft, harassment, badgering of patrons or employees, illegal manipulation of games, loaning money to staff, threats to staff or patrons, suspicious activity, and any illegal activity.
3. A person may request a voluntary exclusion from the gaming facilities and adjacent parking areas.
4. The executive director of Pojoaque Gaming, Inc. or Buffalo Thunder, Inc. may determine whether any other activity is undesirable.
5. Persons excluded may be escorted from the Pueblo of Pojoaque gaming facilities and parking areas.
6. Persons suspected of illegal activity may be detained for a reasonable period of time while a law enforcement officer is contacted.

(c) Procedure for Exclusion.

1. When the undesirable activity is identified, the executive director of Pojoaque Gaming, Inc. or the executive director of Buffalo Thunder, Inc. or the manager on duty shall be contacted.
2. The executive director of Pojoaque Gaming, Inc. or the executive director of Buffalo Thunder, Inc. or the manager on duty shall be considered the management official who determines whether the activity is undesirable and whether the person should be excluded.
3. If the activity is undesirable and the person should be excluded, their photo shall be taken by either the Security Department or the Surveillance Department.
4. The person shall be served with a copy of a completed Exclusion Form and an Exclusion Fact Sheet.
5. The person shall be escorted from the premises by the Security Department.

(d) Appeal of the Exclusion.

1. Unless appealed, an exclusion is permanent.
2. An exclusion may be appealed, in writing, within ten (10) calendar days after the exclusion is issued.
3. Upon receiving a written appeal, the executive director of the Pueblo of Pojoaque Gaming Commission (“PPGC”) shall schedule a hearing before the PPGC.
4. The PPGC executive director shall mail notice of the scheduled hearing to the appellant.
5. The Security Department of Pojoaque Gaming, Inc. or Buffalo Thunder, Inc. shall represent the gaming facility at the hearing.
6. The appellant may be represented by an attorney.
7. Either party may present witnesses and documentary evidence at the hearing.
8. The rules of evidence shall not apply to the hearing.
9. The PPGC shall provide its written decision within fourteen (14) calendar days after the hearing.
10. The written decision shall include the PPGC’s decision on whether the exclusion was warranted, the duration of any ongoing exclusion, any conditions of a limited exclusion, or the termination of the exclusion. The written decision shall also include whether a trespassing charge is automatic for any future violations of the exclusion.

(e) Enforcement of the Exclusion.

1. The Surveillance Department of Pojoaque Gaming, Inc. and Buffalo Thunder, Inc. shall keep an up-to-date log on all exclusions. The log shall include a photo of the excluded person.
2. The Surveillance Department shall present a report to the Pueblo of Pojoaque Gaming Commission on an annual basis by July 1. The report shall include: the cumulative number of persons excluded from gaming facilities, the number of voluntary exclusions, and how many persons have been excluded for each calendar year.
3. The Surveillance Department is responsible for immediately notifying the Security Department dispatch office of any excluded person who has been observed on the premises or parking areas. If an excluded person is observed by the Security Department, they shall immediately notify the Surveillance Department.

4. The Security Department may detain or escort from the premises any person who violates an exclusion.

5. The Tribal Police, in conjunction with their commissions from the Santa Fe County Sheriff, may file applicable civil or criminal trespass charges in State and/or Tribal Court or any other applicable civil or criminal charges.

P-10 Apprehension in Reservation Area

Whenever the Governor is informed and believes that a Tribal Member has committed a crime outside the Pueblo of Pojoaque and is present in the Pueblo of Pojoaque, using it as an asylum from prosecution, the Governor may order a police officer of the Pueblo of Pojoaque to apprehend the Tribal Member and deliver him to the authorities seeking his arrest at the boundaries of the Pueblo of Pojoaque, if sought by another Pueblo court or State authority who have entered a reciprocal agreement with the Pojoaque Tribal Council for the return of persons sought by the Tribal Court.

P-11 Hearing and Release

If a person apprehended pursuant to Section P-10 of this Subpart, so demands, he shall be taken by the arresting police officers to the Tribal Court, where a Judge shall hold a hearing. If it appears that there is not probable cause to believe the Tribal Member is guilty of the crime with which he is charged outside the Pueblo of Pojoaque, or if it appears that the Tribal Member probably will not receive a fair trial in the state court, the Judge shall order the Tribal Member released from custody.

Subpart Q RESERVED

Subpart R Business and Commercial Activities

R-1 Gaming Ordinance

(a) The Tribal Council has enacted a comprehensive gaming ordinance entitled the Third Amended and Restated Gaming Ordinance of the Pueblo of Pojoaque. All Gaming shall be conducted in accordance with this Ordinance. A copy of the Ordinance shall be kept on file with the Pojoaque Pueblo Gaming Commission.

(b) Civil Remedies. Except as otherwise provided in the Gaming Ordinance, any person authorized to enforce the Ordinance may bring a civil action in the Tribal Court against any person who violates the Ordinance and recover monetary damages, attorney fees, injunctive relief, and/or any other relief that the Tribal Court deems is just and equitable under the circumstances.

(c) Jurisdiction. Except as otherwise provided in the Gaming Ordinance, the Tribal Court shall have exclusive jurisdiction over all matters concerning the administration and enforcement of the Ordinance.

R-2 Consumer Financial Services Regulatory Code

(a) Policy.

1. Policy of Self-Government. The Pueblo is firmly committed to the principle of self-government. Revenues from consumer financial services shall be utilized and expended only for the following purposes:

- A. To fund the Pueblo's government operations or programs.
- B. To provide for the public health and general welfare of the Pueblo and its members and visitors to the Pueblo's community.
- C. To promote the Pueblo's economic development and self-sufficiency.
- D. To donate to charitable organizations.

2. Consumer Financial Services Policy. The establishment, promotion and operation of consumer financial services are necessary, provided that such services are regulated and controlled by the Pueblo pursuant to this Code and that the revenues of such services are used exclusively for the benefit of the Pueblo.

3. Responsibility for Regulation. The Pueblo shall have the sole responsibility for the regulation and conduct of consumer financial services authorized by this Code.

4. Consumer Financial Services Authorized. Consumer financial services that are subject to licensing under this Code are authorized and permitted only as described in this Code and any regulations of the Authority adopted under this Code.

(b) Definitions. In this Code, except where otherwise specifically provided or unless the context otherwise requires, the following terms and expressions shall have the following meanings:

1. “Applicant” means any Person who has applied for a License under the provisions of this Code.

2. “Application” means a request for the issuance of a License under the provisions of this Code.

3. “Code” means this Financial Services Regulatory Code.

4. “Consumer” means a natural person who acquires goods, services, or credit primarily for personal, family or household purposes. The term does not include a person who acquires goods, services, or credit primarily for business, commercial, or investment purposes.

5. “Consumer Financial Services” or “Financial Services” means the business of providing goods, services, or credit to consumers in transactions subject to this Code in exchange for interest, fees, rent, or other form of consideration on the Pueblo’s land or within the Pueblo’s jurisdiction. The term includes, without limitation, loans, payday loans, installment loans, credit sales, pawn transactions, sale-leaseback transactions, rent-to-own transactions, guaranties, letters of credit, or other forms of Consumer Financial Services.

6. “Consumer Financial Services Regulatory Authority” or “Authority” means the regulatory authority established and described in Section (d) of this Code.

7. “Employee Licensee” means a person who works on the Pueblo’s jurisdictional land that is licensed by the Authority to be employed by a Licensee.

8. “Financial Services Licensee” means a person that is licensed by the Authority to engage in the business of providing Consumer Financial Services.

9. “License” means the official, legal and revocable Financial Services License issued by the Authority. A License relating to Consumer Financial Services is a revocable privilege subject to revocation in accordance with this Code. A License is a revocable privilege to do business within the jurisdiction of the Pueblo of Pojoaque.

10. “Licensee” means any Financial Services Licensee, Vendor Licensee or Employee Licensee whenever used generally in this Code.

11. “Person” means any natural person, partnership, joint venture, association, trust, firm, estate, club, society, receiver, assignee, trustee in bankruptcy, political entity, company, corporation or other group, however organized, and any owner, director, officer or employee of any such entity or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, the government of the Pueblo, any governmental entity of the Pueblo or any of the above listed forms of business entities that are wholly owned or operated by the Pueblo, or any other entity whatsoever, who engages or seeks to engage in the business of Consumer Financial Services pursuant to this Code; provided, that the term does not include the Federal Government, State Government, or any agency thereof.

12. “Pueblo” means the Pueblo of Pojoaque.

13. “Tribal Council” means the Pueblo of Pojoaque Regular Tribal Council, the primary governing body of the Pueblo as empowered by the Pueblo’s traditional government and pursuant to laws of the Pueblo.

14. “Vendor Licensee” means a Person or entity that is licensed by the Authority to provide services directly to a Financial Services Licensee, including, but not limited to management services, customer service support, marketing services and software services.

(c) General Provisions.

1. Construction. In construing the provisions of this Code, the following shall apply:

A. The provisions of this Code, being necessary for the benefit of the Pueblo and its members, shall be liberally construed to effectuate its purpose and to promote substantial justice.

B. Tribal Council Resolution 2013-100 (November 20, 2013) and the Policy stated in Section (a) constitute the standards to be observed by the Authority in the exercise of its discretionary powers under the Code, in the adoption of implementing regulations, in the issuance of orders and declaratory statements, in the examination and supervision of Licensees, and in all matters of construction and application of the Code required for any determination or action by the Authority.

C. Nothing in this Code shall be deemed or construed to be consent of the Authority to the jurisdiction of the United States or of any state, or of any other tribe with regard to the business or affairs of the Authority.

D. No Person acting, or who has acted, in good faith reliance upon a rule, order, or declaratory statement issued by the Authority shall be subject to any criminal, civil, or administrative liability for such action,

notwithstanding a subsequent decision by a court of competent jurisdiction invalidating the rule, order, or declaratory statement. In the case of an order or a declaratory statement that is not of general application, no Person other than the Person to whom the order or declaratory statement was issued is entitled to rely upon it, except upon material facts or circumstances that are substantially the same as those upon which the order or declaratory statement was based.

E. Words of the masculine gender or neutral include masculine and feminine genders and are neutral.

F. Words in the present tense include the future and past tenses.

G. Words in the singular number include the plural, and words in the plural number include the singular.

H. Any and all decisions and orders of the Authority, the Pueblo of Pojoaque Tribal Court, or the Tribal Council shall be accorded primary deference as to the construction and interpretation of this Code.

2. Severability. If any section of this Code is invalidated by a court of competent jurisdiction, the remaining sections shall not be affected thereby.

3. Effective Date. This Code shall take effect and be in full force and effect from and after the date of its final passage and approval by the Tribal Council.

(d) Consumer Financial Services Regulatory Authority.

1. Regulatory Agent; Compensation, Duties.

A. Regulatory Agent; Term of Office. The Authority shall initially be governed by a Regulatory Agent(s) appointed by the Tribal Council. The Tribal Council may increase the number of regulatory agents by Resolution as it deems necessary to conduct the governmental operations of the Authority. The Agent shall be appointed for a term of at least one (1) year, or until the Agent is otherwise replaced or removed by the Tribal Council.

B. Compensation. The compensation of the Agent shall be established from time to time by the Tribal Council or as the Tribal Council may delegate to the Authority.

C. Duties. The Agent shall have the following responsibilities:

- i. Oversee and have responsibility for the day-to-day operations of the Authority, including supervision of Authority employees;
- ii. Serve as the agent for service of process for the Authority; and

- iii. Conduct or oversee the conduct of any meetings or hearings held by the Authority in accordance with this Code or further directive of the Tribal Council.

D. Agent Qualifications. Any person appointed as an Agent of the Authority shall meet the following qualifications:

- i. The Agent shall have expertise, experience, education or a combination thereof in the following areas: financial services, finance, management, business, governmental regulation, law, and/or Pueblo policy.
- ii. The Agent shall be at least twenty-one (21) years of age and show proof of High School Diploma or equivalent.
- iii. No person shall serve as Regulatory Agent if:
 - a. His/her prior activities, criminal record, if any, or reputation, habits or associations:
 - (1) Pose a threat to the public interest;
 - (2) Threaten the effective regulation and control of financial services; or
 - (3) Enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of financial services.
 - b. He/she has been convicted of or entered a plea of no contest to any felony or to a misdemeanor involving breach of trust or dishonesty in any jurisdiction in the last ten (10) years from the date of appointment as Regulatory Agent; or
 - c. He/she, or any member of his or her Immediate Family has an ownership, partnership or other direct monetary or financial interest in the conduct of any Licensee or is in privity with a Financial Services Licensee, or one of its agents, contractors, or sub-contractors; or if he or she has any other personal or legal relationship that places him/her in a conflict of interest with any Licensee. For purposes of this subsection, "Immediate Family" includes spouse or significant other, parents, children, and siblings. Ownership of a Licensee by virtue of membership in the Pueblo is not a per se monetary or financial interest in the conduct of any Licensee.

2. Meetings. The Authority shall hold regular meetings at least quarterly or as otherwise determined by the Authority.

3. Prohibited Acts. The Agent and Authority employees shall not do any of the following with respect to any Licensee under the jurisdiction of the Authority:

A. Be indebted, either directly or indirectly, as borrower, accommodation endorser, surety or guarantor to any Licensee unless such indebtedness was contracted before becoming employed by or appointed to the Authority and is fully disclosed to the Authority. Notwithstanding the foregoing, an employee of the Authority other than a Commissioner may become so indebted; provided that, while the debt is outstanding, the borrower shall not participate in any examination of any Licensee conducted by the Authority and the indebtedness is:

i. Incurred on terms no more favorable than those available to the general public, and

ii. Fully disclosed to and approved by the Chairperson before funding, including the following information:

a. The date of the indebtedness;

b. The amount;

c. The interest rate; and

d. Security.

B. Be an officer, director, or employee of any Licensee.

C. Be interested in, directly or indirectly, or receive from any Licensee or any officer, director, or employee of any Licensee any salary, fee, compensation or other valuable thing by way of gift, donation, credit, or compensation for services or otherwise; except that an Agent or Authority employee is permitted to receive his or her pro-rata share of revenue that has been generated by a Licensee and is distributed among all eligible Pueblo members by virtue of membership in the Pueblo.

4. Removal of Regulatory Agent / Vacancy.

A. Removal. The Agent may be removed by the Tribal Council for the following reasons: serious inefficiency, neglect of duty, malfeasance, misfeasance, nonfeasance, misconduct in office, or for any conduct which threatens the honesty and integrity of financial services or the Authority, is contrary to the best interests of the Pueblo, or violates the letter or intent of this Code. The decision of the Tribal Council concerning removal of a Regulatory Agent shall be final.

B. Vacancy. If the Agent shall die, resign, be removed or for any reason be unable to serve as an Agent, the Tribal Council shall declare the position vacant and shall appoint another qualified individual to fill the position within thirty (30) days of the vacancy. The term of office of the person appointed to replace the Agent shall be for the balance of the unexpired term for the position.

5. Powers of the Authority. The Authority has responsibility for the discharge of all duties imposed by law and this Code on the Authority. In furtherance, but not in limitation of, the Authority's purposes and responsibilities, and subject to any restrictions contained in this Code or other applicable law, the Authority shall have, and is authorized to exercise the following powers and responsibilities in addition to all powers already conferred by this Code:

A. To promulgate, adopt, and enforce regulations and rules furthering the purpose and provisions of this Code; provided that such regulations shall take effect only upon approval of the Tribal Council.

B. To examine or inspect or cause to be examined or inspected each Licensee annually and more frequently if the Authority considers it necessary or advisable.

C. To make or cause to be made reasonable investigations of any Licensee or Person as it deems necessary or advisable to ensure compliance with this Code or any order of the Authority, to determine whether any Licensee or Person has engaged, is engaging or is about to engage in any act, practice or transaction that constitutes an unsafe or unsound practice or violation of this Code or any order of the Authority; or to aid in adopting rules or regulations pursuant to this Code.

D. To establish procedures designed to permit detection of any irregularities, fraud, or the like.

E. Upon prior explicit resolution and approval of the Tribal Council, to employ such advisors as it may deem necessary. Advisors may include, but are not limited to, lawyers, accountants, law enforcement specialists and financial services professionals.

F. To accept, review, approve or disapprove any Application for a License, including conducting or arranging for background investigations of all Applicants.

G. To examine under oath, either orally or in writing, in hearings or otherwise, any Licensee or Person, or agent, officer or employee of any Financial Services Licensee, or any other witness with respect to any matters related to this Code and to compel by subpoena the attendance of witnesses and the production of any books, records, and papers with respect thereto. Upon refusal to appear or produce, the Authority may

apply to a court of competent jurisdiction to compel appearance or production.

H. To make, or cause to be made by its agents or employees, an examination or investigation of the place of business, equipment, facilities, tangible personal property and the books, records, papers, vouchers, accounts, documents and financial statements of any Licensee or Person engaging or participating in, or suspected to be engaging or participating in, Consumer Financial Services.

I. To discipline any Licensee or Person engaging or participating in Consumer Financial Services in violation of this Code by ordering immediate compliance, issuing fines and sanctions, and suspending or revoking any License pursuant to the hearings and due process required by Section (d)10 of this Code.

J. To arbitrate, compromise, negotiate or settle any dispute to which it is a party relating to the Authority's authorized activities, subject to any approval of the Tribal Council that may be required by the Tribal Council.

K. To adopt a schedule of fees, attached hereto as Exhibit A, to be charged for the processing, issuance and renewal of Licenses, including fees or charges associated with conducting background checks; for reasonable examinations of Licensees; and for services rendered relating to transcripts and the furnishing or certifying of copies of proceedings, files, and records and to impose the forgoing fees as applicable.

L. To establish and maintain such bank accounts as may be necessary or convenient.

M. To make such findings as may be necessary or advisable to implement the Authority's duties and powers, with such findings to be given deference as the legally binding findings of a governmental entity.

6. Investigations, Right of Entrance.

A. Investigations. The Authority, upon complaint or upon its own initiative or whenever it may deem it necessary or advisable in the performance of its duties or the exercise of its powers, may investigate and examine the operation and premises of any Licensee or Person engaging or suspected to be engaging in Pueblo business within its jurisdiction.

- i. In undertaking such investigations, the Authority may request the assistance of federal or local law enforcement officials, legal counsel and/or other third parties.

- ii. In conducting such investigation, the Authority shall make no order or final decisions without affording any affected party notice and a hearing pursuant to Section (d)10 of this Code.

B. Right of Entrance. The Authority and duly authorized employees or agents of the Authority, during regular business hours, may reasonably enter upon any Pueblo premises of any Licensee, or Person engaging in or suspected to be engaging in Consumer Financial Services for the purpose of making inspections and examining the accounts, books, papers and documents of any such Licensee, or Person.

C. Aid to Entry. The staff of the Licensee, or Person engaging in or suspected to be engaging in Consumer Financial Services shall facilitate such inspection or examinations by giving every reasonable aid to the Authority and to any properly authorized officer or employee.

7. Annual Budget. The Authority shall prepare an annual operating budget for all Authority activities and present it to the Tribal Council no less than thirty (30) days prior to the commencement of each operating year or part thereof.

8. Authority Regulations.

A. Regulations necessary to carry out the implementation and orderly performance of the Authority's duties and powers shall include, but shall not be limited to, the following:

- i. The making of findings or other information required by or necessary or advisable to implement this Code;
- ii. Interpretation and application of this Code, as may be necessary or advisable to enforce the Authority's duties and exercise its powers;
- iii. A regulatory system for overseeing Consumer Financial Services, including accounting, contracting, management and supervision;
- iv. The conduct of inspections, investigations, hearings, enforcement actions and other powers of the Authority authorized by this Code; and
- v. Specification of the amount and the schedule of applicable Licensing and examination fees that shall be imposed by the Authority.

B. No regulation of the Authority shall be of any force or effect unless it is adopted by the Authority by written resolution and subsequently approved by a resolution of the Regular Tribal Council.

9. Presentations and Reports to the Tribal Council. Annually, the Authority shall present to the Tribal Council, a report summarizing the prior year's activities, any significant problems or accomplishments, reports received from each Licensee, plans for the upcoming year, and such other information as the Authority deems necessary or advisable to keep the Tribal Council fully informed as to the status of the Authority's activities. The Authority shall define by regulation, subject to the approval of the Tribal Council, the schedule for the submission of any other reports or presentations.

10. Notice and Opportunity to Cure; Due Process; Notice; Hearings; Examiner. The Authority shall provide notice and a reasonable opportunity of at least sixty (60) days to cure before it initiates any action to utilize any of its enforcement capabilities in the administration of its powers and duties hereunder absent exigent circumstances or other good cause. If the matter(s) is not satisfactorily cured within that period, the Authority shall provide notice and the opportunity for a hearing comporting with notions of due process if it is to utilize any of its enforcement capabilities in the administration of its powers and duties hereunder.

A. No Hearing, Voluntary Resolution. Whenever it shall appear to the satisfaction of the Authority that all of the interested parties involved in any dispute or concern have agreed concerning the matter at hand, the Authority may dismiss or approve resolution of the issue, as appropriate, without a hearing.

B. Notice of Hearing. The Authority shall, within ten (10) days after being advised of an event giving rise to the advisability of a hearing under this subsection, provide a written notice setting forth, with specificity, the issues to be resolved and the date and time at which a hearing shall be conducted.

C. Hearing. Except as determined by the Authority, the hearing shall be scheduled to take place no less than ten (10) and no more than thirty (30) business days after the notice of hearing is delivered, unless the Authority for good cause shown or upon its own motion determines the hearing should reasonably be postponed and rescheduled. At the hearing, the affected parties shall be provided the opportunity to present oral or written testimony to all people interested therein as determined by the Authority.

D. Examiner. The Authority's Regulatory Agent shall act as examiner for the purpose of holding any hearing, or the Agent may appoint an examiner qualified in the law or possessing knowledge or expertise in the subject matter of the hearing for the purpose of conducting any hearing. Any such appointment shall constitute a delegation to such examiner of the powers of the Authority under this Code with respect to any such hearing.

E. Decision. The Authority shall issue a written decision to all affected parties within thirty (30) days after the hearing.

F. Appeals. Affected parties may appeal an Authority determination by filing a written appeal to the Tribal Council within twenty (20) days of receiving the Authority's final written decision. The Tribal Council shall place the matter on the agenda of its next regularly scheduled meeting. Any decision of the Tribal Council on appeal shall be final and not subject to further appeal.

(e) Licenses.

1. Applicability. Any Person seeking to engage in Consumer Financial Services subject to this Code, a Vendor Licensee, or, when applicable, any Person employed by a Financial Services Licensee shall apply for and receive all required licenses prior to engaging in Consumer Financial Services, providing services to a Financial Services Licensee, or being employed by a Financial Services Licensee.

A. A person who engages in Consumer Financial Services without charging or collecting interest or other consideration for a transaction or charges or collects nominal or incidental consideration is not required to obtain a Licensee to engage in Consumer Financial Services, but is required to otherwise comply with the provisions of the Code.

2. Application Procedure.

A. Submission to Authority. An Applicant seeking a License shall submit an Application to the Authority on such form as the Authority may require.

B. Application Contents. At a minimum, the Application shall contain the following information:

- i. For Applicants that are other than natural persons, each of the Applicant's owners, officers and/or directors; and principal management employees, including any chief executive officer, chief financial officer, chief operating officer, and general manager;
- ii. Each of its owners or partners, if an unincorporated business;
- iii. Each of its shareholders who own more than ten percent (10%) of the shares of the corporation;
- iv. For each person listed in Sections (e)1 above, and for all Applicants that are natural persons, an Application for a Financial Services License, an Application for a Vendor License, or Employee License shall include each person's

criminal and civil record, if any, and an explanation of any crimes for which he has been convicted or civil suits in which a judgment has been entered against him or to which he has entered a plea of no contest in any jurisdiction and a complete disclosure of any pending or anticipated civil or criminal action in any jurisdiction against the Applicant. The Applicant shall provide written permission giving the Authority or its designees the right to the Applicant's background, including his criminal record;

- v. An Applicant for an Employee License shall provide all necessary information and written permission for the Authority or its designee to obtain the Applicant's credit history and/or credit score;
- vi. A list of all Consumer Financial Services-related licenses the Applicant has ever applied to the Authority for, whether or not such licenses were issued;
- vii. The disclosure of whether there is a previous contractual relationship with an Indian Pueblo; and
- viii. A sworn statement that if the License applied for is issued, the Applicant will submit to the jurisdiction of the Pueblo; the Applicant will abide by all applicable Pueblo and Federal laws, regulations and policies; and the information contained in the Application is true and correct to the best of Applicant's knowledge.
- ix. Each Application shall be accompanied by an application fee, the amount of which shall be set by the Authority.

3. Review, Issuance and Denial, Term.

A. Consumer Financial Services License. A Consumer Financial Services License shall automatically issue if the following criteria are met:

- i. The Applicant complied with the provisions of Section (e)2;
- ii. No owner, partner, officer and/or director; or principal management employee of the Applicant or a shareholder who owns more than ten percent (10%) of the shares of Applicant has been, in any jurisdiction, convicted of a felony or any other crime involving breach of trust or dishonesty in the last ten (10) years from the date of application; been convicted or entered a plea of no contest of any felony or any other crime involving breach of trust or dishonesty in the last ten (10) years from the

date of application; had an order entered against it by an administrative agency based on conduct that involved fraud, deceit or misrepresentation by the Applicant; or had a financial judgment ordered against it in a civil action based on fraud, deceit or misrepresentation;

- iii. The Consumer Financial Services are authorized pursuant to this Code;
- iv. The Consumer Financial Services are authorized by a Tribal Council Resolution; and
- v. The Pueblo has the sole ownership interest in the Pueblo's enterprise that provides the Consumer Financial Services.

B. Employee License. Upon compliance with Section (e)2, the Authority shall review the qualifications of the Applicant sufficient to make a determination of eligibility as required under this Code.

C. Issuance. Upon completion of any necessary background investigation, the Authority may issue a License on a conditional or unconditional basis. The Authority shall have the final word on whether to license an Applicant. Nothing herein creates a property right in the License. The Authority may in its discretion grant a temporary License after submission of a completed application and a preliminary determination of suitability by the Authority.

D. Denial. The Authority, when it does not license an Applicant shall notify the Applicant in writing, provide the basis for the denial of the License, and otherwise comply with the procedural requirements of Section (d)10 of this Code.

E. Term. Any License issued pursuant to this section shall be effective for a period of two (2) years from the date of issuance. A temporary License may be for such period of time as determined by the Authority, but not to exceed sixty (60) days, with a possible sixty-(60)-day renewal for cause.

F. License Substance and Classification. The License shall bear on its face the name of the Licensee, the Pueblo's logo, the issue date, the license number, and the applicable classification of the License. Subject to this Code, the Authority may issue Licenses that authorize a Licensee to provide all types of Consumer Financial Services under this Code or a limited-purpose License that only authorizes certain types of Consumer Financial Services under this Code. Each License shall specify its scope.

- i. Record Retention. The Authority shall maintain the Applicant's file, including applications, background investigation reports,

and eligibility determination reports for no less than three (3) years from the date of termination of employment.

4. License Denial, Suspension or Revocation of License.

A. Denial; Temporary Suspension or Revocation. The Authority shall not unreasonably withhold issuance or renewal of a License. The Authority shall deny a License or suspend or revoke a License, after notice and an opportunity for a hearing pursuant to Section (d)10 herein, if the Authority finds that an Applicant or Licensee:

- i. Failed to pay initial Application or renewal fees;
- ii. Made a material misstatement or omission on the Application or on any document required to be filed with the Authority;
- iii. Withheld or provided incomplete or insufficient pertinent information;
- iv. Is not a Person of honesty, truthfulness or good character;
- v. Violated or aided, abetted, or conspired with another Licensee or Person or knowingly caused any Licensee or Person to or otherwise participated in violation of this Code or the rules and regulations of the Authority;
- vi. Participated in Consumer Financial Services that was not authorized by this Code;
- vii. Knowingly falsified books or records that relate to a transaction connected with the operation of Consumer Financial Services;
- viii. Failed to keep sufficient books and records to substantiate receipts, disbursements, and expenses incurred or paid by a Licensee authorized pursuant to this Code or to substantiate, by the Authority, compliance with this Code;
- ix. Failed to take reasonable measures to ensure that an agreement with a consumer is not materially breached;
- x. Is insolvent;
- xi. Is charged in any jurisdiction with a felony or any other crime involving breach of trust or dishonesty, so long as any temporary suspension is removed if the charges are subsequently dismissed;

- xii. Has been convicted or has entered a plea of no contest in any jurisdiction of any felony or any other crime involving breach of trust or dishonesty;
- xiii. Has had an order entered against it by an administrative agency of any jurisdiction and the order is based on conduct that involved fraud, deceit or misrepresentation by the Applicant or Licensee and it entered after notice and an opportunity to be heard;
- xiv. When the Licensee is a Licensee or Licensee Applicant, has had a financial judgment ordered against it in a civil action based on fraud, deceit or misrepresentation;
- xv. Employed any Person in a Consumer Financial Services business whom the Licensee knew or should have known was convicted of fraud, theft, or embezzlement;
- xvi. Refused to comply with any lawful order, inquiry or directive of the Authority or the Tribal Council;
- xvii. Attempted to bribe or offer something of value to any Person, Tribal Council member, or a Commissioner in an attempt to avoid or circumvent Pueblo law;
- xviii. Stole or attempted to steal funds or other items of value from the Authority or the Pueblo;
- xix. Poses a threat to the public interest or the effective regulation of Consumer Financial Services;
- xx. Creates or enhances the danger of unsuitable, unfair or illegal practices and methods and activities in the conduct of Consumer Financial Services;
- xxi. Was a former Licensee pursuant to this Code whose License was suspended or revoked and not subsequently reinstated; or
- xxii. Has demonstrated an inability to manage the Applicant's personal or business finances or demonstrates a sufficient indebtedness in relation to income so as to cause concern for the Applicant's ability to fulfill its responsibilities under this Code.

B. Acts of Controlling Persons. It is sufficient cause for denial, suspension or revocation of a License if an officer, director, partner, employee or controlling person of the Licensee or Applicant acted or failed to act in a manner that if the Licensee or Applicant acted or failed to act in that manner would be cause for denial, suspension or revocation

of the License. For purposes of this Subsection, “controlling person” means a person who owns more than twenty-five percent (25%) equity interest in the Licensee or who has the ability to affect one or more significant business decisions of the Licensee or Applicant.

C. Procedure for Suspension or Revocation.

- i. Upon reasonable basis for belief that a violation of the Code has occurred, the Authority or its designee may either undertake an investigation of the Licensee, or serve upon such Licensee an order to show cause why the Licensee's License should not be suspended or revoked, or why the Licensee should not be enjoined from conducting Consumer Financial Services under this Code.
- ii. Such notice shall state the reason for the suspension and/or order, and the time and place for the hearing before the Authority pursuant to Section (d)10 herein.
- iii. The Licensee shall have an opportunity to present testimony and cross-examine opposing witnesses, and to present any other evidence as to why a suspension, revocation order or injunction should not be issued.
- iv. The hearing shall be governed in all respects in accordance with Pueblo law and Authority regulations. Any suspension or revocation decision of the Authority after hearing may be appealed in accordance with the provisions of Section (d)10.

5. Renewal.

A. Renewals. A Licensee shall petition to have the License renewed by applying to the Authority for a renewal before the License expires. Applicants may be required to provide updated material as requested.

B. Non-Renewal. The Authority may deny renewal of a License or suspend or revoke a License if the Authority finds the existence of any circumstance listed in Section (e)4.A above, or that any other fact or condition exists that, if it had existed at the time of the original application for the License, would have warranted the Authority to refuse to issue the License.

6. Voluntary Surrender of License. Any Licensee registered pursuant to this Code may voluntarily surrender its License at any time by giving written notice of the surrender to the Authority.

7. Assignment or Transfer. A License is not salable, lendable, transferable or assignable and control of a License shall not be acquired through any stock

purchase or other devise without the prior written consent of the Authority. The Authority shall not give consent if the Authority finds that the acquiring Person does not meet the qualifications described in this Code. For the purposes of this Subsection, “control” means the power to vote more than twenty-five percent (25%) of the outstanding voting shares of a licensed corporation, partnership, association or trust.

8. Deposits of Fees and Assessments. Application fees, renewal fees, late payment penalties, civil penalties, administrative fines and other fees or penalties provided for in this Code shall in all cases be paid directly to the Authority. The Authority shall deposit such proceeds into an account or fund designated by the Tribal Council.

(f) Exemptions. The following Persons are subject to Sections (g)1 and 2 but otherwise exempt from any other provision or application of this Regulatory Code:

1. Any Person providing products or services in support of a Financial Services Licensee business not provided directly to the Financial Services Licensee;
2. Any national or state chartered bank that is insured by the Federal Deposit Insurance Corporation or any subsidiary thereof;
3. Any Person licensed or otherwise authorized to engage in payment processing, money transmission, tax preparation, or the practice of law;
4. Any credit bureau or similar third-party service provider or vendor engaged by a Licensee for purposes of risk assessment or similar pre-origination services.
5. Any other federal insured financial institution and any of their subsidiaries; any employee of the above.

(g) Licensees.

1. Compliance. Licensees shall at all times comply with the provisions of this Code, rules and regulations promulgated pursuant to this Code, and all other Pueblo and federal laws as applicable.
2. Federal Consumer Protection Laws. A Licensee shall conduct business in a manner consistent with the spirit of federal consumer protection law, including, without limitation, the following, as applicable: Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. §§ 5491-5493; Truth in Lending Act, 15 U.S.C. § 1601 *et seq.*, and related regulations at 12 C.F.R. Part 226; Consumer Leasing Act, 15 U.S.C. §§ 1667 *et seq.*, and related regulations at 12 C.F.R. Part 213; Fair Credit Billing Act, 15 U.S.C. § 1666a; Equal Credit Opportunity Act, 15 U.S.C. § 1691 *et seq.*, and related regulations at 15 C.F.R. Part 202; Electronic Fund Transfer Act, 15 U.S.C. § 1693 *et seq.*, and related regulations at 12 C.F.R.

Part 205; Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.* and related regulations at 12 C.F.R. Part 222); privacy provisions of Title V of the Gramm-Leach-Bliley Act, 15 U.S.C. §§ 6801 *et seq.*, and related regulations at 16 C.F.R. Part 313 and 16 C.F.R. Part 314; Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.*, and related regulations at 16 C.F.R. Part 901; Talent Amendment, 10 U.S.C § 987, and related regulations of the Department of Defense at 32 C.F.R. part 232; and Servicemembers' Civil Relief Act, 50 U.S.C. App. §§ 501-596.

3. Prohibited Acts by Licensees.

A. A Person shall not engage in the business of Consumer Financial Services subject to this Code without first obtaining a License pursuant to this Code. A separate License is not required for each location that the Licensee operates and deals in person with the consumers, but each location must be approved in advance by the Authority. The Financial Services shall post its License issued pursuant to this Code at the each location or, if the location is a website, said License shall be posted electronically on each website. For purposes of this Section (f)2, the term "location" or "a location" includes a website maintained for the purpose of participating in Consumer Financial Services pursuant to this Code.

B. A Financial Services Licensee shall not:

- i. Engage in any financial services other than those allowed under this Code.
- ii. Assess any interest, fee, or charge fee that is greater than any applicable limitation, if any, prescribed in this Code.
- iii. Use or cause to be published or disseminated any advertisement that contains false, misleading or deceptive statements or representations.
- iv. Engage in unfair, deceptive or fraudulent practices.
- v. Tie or otherwise condition the providing of Consumer Financial Services to the sale of any good or service by the Licensee.

4. Minimum Internal Control Systems. Each Financial Services Licensee shall maintain a system of minimum internal controls systems regulation as may be promulgated by the Authority.

A. Internal control systems regulation shall be submitted to Licensee for review and comment prior to implementation.

5. Books, Accounts and Records, Examinations, Costs.

A. A Financial Services Licensee shall maintain at each location at which it conducts business all books, accounts and records that the Authority reasonably requires. Each Financial Services License shall:

- i. Ensure that the books, accounts and records are sufficiently detailed to comply with the Code and all applicable Pueblo and federal laws.
- ii. Maintain the books, accounts and records separately from any other business in which the Licensee is engaged and shall retain the books, accounts and records for at least three years.

B. The Authority may examine or cause to be examined each Financial Services Licensee annually. In conducting such examination, the Authority or its agent may examine the books, accounts and records to determine if the Financial Services Licensee has complied with this Code and any implementing regulations adopted pursuant to this Code. The Financial Services Licensee shall pay the cost of the examination as may be required by the Authority in accordance with its regulations.

6. Reports.

A. Annual Reports. Every Financial Services Licensee shall file an annual report with the Authority in a time and manner specified by the Authority. Each report shall contain information specified by the Authority sufficient for the Authority to determine compliance with this Code including, at a minimum, the following:

- i. The name, address and telephone number of the Licensee;
- ii. The names, addresses and titles of all of the current managers of the Licensee;
- iii. A sworn statement that the Licensee, to the best of its knowledge, has complied and will continue to comply with all Pueblo and federal laws applicable to Consumer Financial Services; and
- iv. The name and address of the agent who will accept service of process on behalf of the Licensee.

7. Audit Requirements. Each Financial Services Licensee shall provide to the Authority annually a copy their financial statements which may be audited or unaudited.

8. Public Notice. Each Financial Services Licensee shall have a copy of this Code and any implementing regulations readily available for inspection by any person at each authorized Consumer Financial Services site.

(h) Authorized Consumer Financial Services Transactions.

1. General Authority. Subject to this Code, a Financial Services Licensee may engage in the business of providing Consumer Financial Services as provided in this Code.

2. General Terms, Conditions, and Practices.

A. Preservation of Tribal Sovereign Immunity and Exclusive Jurisdiction. The consumer must be provided a notice in a form approved by the Authority regarding preservation of tribal sovereign immunity of the Pueblo and of the Authority and exclusive jurisdiction of the Pueblo of Pojoaque Tribal Court and appeals thereto and a consumer's limited and exclusive rights to submit complaints to a tribal dispute resolution process in accordance with this Code and regulations of the Authority.

B. Definitions. As used in this Section:

- i. "Business day" means, with respect to the Right of Rescission under Section (h)2.B.vii., all calendar days except Sundays and legal public holidays.
- ii. "Closed end credit" means the extension of credit by a Lender to a consumer pursuant to an arrangement or agreement which is not a revolving credit plan.
- iii. "Conspicuously displayed" means highlighted through the use of capitalization, bold print, underlining or some combination thereof.
- iv. "Installment loan" means a loan between one thousand dollars (\$1,000) and twenty-five thousand dollars (\$25,000) made to an individual consumer that charges interest and/or fees for which the stated repayment period is greater than sixty (60) days but no longer than five (5) years and is not secured by title to a motor vehicle.
- v. "Lender" means a Financial Services Licensee.
- vi. "Loan" means any extension of closed end credit in connection with a Consumer Financial Services transaction.
- vii. "Right of Rescission" means, with respect to any short-term consumer loan or installment loan, the right to return any

amount borrowed, in full, on or before the close of business of the business day following the day on which such sum has been disbursed or advanced without the incursion of any fee or other charges.

- viii. “Rollover” means, with respect to any short-term consumer loan, the extension of an outstanding and unpaid indebtedness beyond the stated repayment period solely on the basis of the payment of a fee without approval of a new loan application.
- ix. “Short-term consumer loan” means a loan of two thousand dollars (\$2,000) or less made to an individual consumer that charges interest and/or fees for which the stated repayment period is less than sixty (60) days if a "payday" product, and less than two (2) years if an Installment loan and is not secured by title to a motor vehicle.
- x. “Workout agreement” means an agreement between an individual consumer and a Lender for the repayment of an outstanding and unpaid indebtedness which requires a net reduction of not less than ten percent (10%) of such indebtedness per payment period.

C. Extension of Credit. Any Lender may, subject to any limitations on lending authority or otherwise imposed by law and subject to the other provisions of this Section, offer and extend closed end credit to a consumer and, in connection therewith, may charge and collect the interest and other charges permitted by this subpart and may take such security as collateral in connection therewith as may be acceptable to the Lender.

D. Interest. A Lender may charge and collect interest in respect of a loan at such daily, weekly, monthly, annual or other periodic percentage rate or rates as the agreement governing the loan provides or as established in the manner provided in such agreement and may calculate such interest by way of simple interest or such other method as the agreement governing the loan provides. If the interest is precomputed it may be calculated on the assumption that all scheduled payments will be made when due. For purposes hereof, a year may but need not be a calendar year and may be such period of from three hundred and sixty (360) to three hundred and sixty-six (366) days, including or disregarding leap year, as the Lender may determine.

E. Variable Rates. If the agreement governing the loan so provides, the periodic percentage rate or rates of interest charged and collected in respect of the loan may, if the interest is not precomputed and taken in advance, vary in accordance with a schedule or formula. Such periodic percentage rate or rates may vary from time to time as the rate

determined in accordance with such schedule or formula varies and such periodic percentage rate or rates, as so varied, may be made applicable to all or any part of outstanding unpaid amounts of such loan on and after the effective date of such variation. This section shall not be construed to limit the authority of a Lender to charge and collect interest in respect of a loan in the manner and at the rate or rates authorized in any other section of this subpart. Without limitation, a permissible schedule or formula hereunder may include provisions in the agreement governing the loan for a change in the periodic percentage rate or rates of interest applicable to all or any part of outstanding unpaid amounts whether by variation of the then applicable periodic percentage rate or rates of interest, variation of an index or margin or otherwise, contingent upon the happening of any event or circumstance specified in the loan agreement, which event or circumstance may include the failure of the consumer to perform in accordance with the terms of the loan agreement.

F. Additional Charges. In addition to or in lieu of interest at a periodic percentage rate or rates permitted by Sections (h)2.E and (h)2.F, the Lender may charge and collect, in respect of a loan:

- i. If the agreement governing the Loan so provides, charge and collect any other fees or charges, costs, points, premiums and all other expenses which may be assessed by the Lender in connection with the Loan.
- ii. If the agreement governing a Loan so provides, a Lender may impose, as interest, a late or delinquency charge upon any outstanding unpaid installment payments or portions thereof under the loan agreement which are in default; provided, however, that no more than one (1) such delinquency charge may be imposed in respect of any single such installment payment or portion thereof regardless of the period during which it remains in default. Nothing contained in this subdivision shall limit, restrict or otherwise affect the right of a Lender under and pursuant to Section (h)2.E this title to change the periodic percentage rate or rates of interest applicable to the loan agreement between the Lender and a consumer upon the occurrence of a delinquency or default or other failure of the consumer to perform in accordance with the terms of the loan agreement;
- iii. Such other charges as are set forth in the Agreement governing the loan including, but not limited to, costs, fees, services, points, premiums and all other reasonable expenses which may be incurred by such applicant in connection with a loan. No Lender shall demand, collect or receive from any applicant for a loan, directly or indirectly, any other charges, or any greater

amounts for any authorized charges than those permitted by this subpart.

G. Deferred Installments. A Lender may at any time or from time to time permit a consumer to defer installment payments of a loan and may, in connection with such deferral, charge and collect deferral charges.

H. Refinancing.

- i. A consumer may, with the consent of the Lender, refinance the entire outstanding and unpaid amount of a loan, and the Lender may charge and collect a refinancing charge in connection with any such refinancing.
- ii. For the purposes of this section, the entire outstanding and unpaid amount of a loan shall be deemed to be the total of the unpaid balance and the accrued and unpaid interest and charges on the date of refinancing.

I. Short-Term Consumer Loans and Installment Loans.

- i. In addition to such other limitations and requirements as are imposed pursuant to other provisions of this subpart, short-term consumer loans and installment loans shall be subject to the following:
 - a. No Lender shall make more than six (6) rollovers of an existing short-term consumer loan, provided however, this section does not apply to a disclosed payment schedule of an Installment loan that may provide for interest only payments per the terms of the consumer agreement. A Lender may, following not more than the maximum allowable number of rollovers, enter into a workout agreement with the consumer or take such other actions as are lawful to collect any outstanding and unpaid indebtedness.
 - b. No Lender shall make a short-term consumer loan unless such loan is subject to a right of rescission on the part of the individual consumer.
 - c. No Lender shall pursue or threaten to pursue criminal action against an individual consumer in connection with the nonpayment of any amount due, including the unpaid return of any check or automated clearing house transaction.

- ii. In addition to such other disclosure requirements as are imposed pursuant to other provisions of this subpart, short-term consumer loans and installment loans shall be subject to the following: No Lender shall make a short-term consumer loan or an Installment loan unless the application for such loan contains a written disclosure, conspicuously displayed, that:
 - a. The loan is designed as a short-term cash flow solution and not designed as a solution for longer term financial problems;
 - b. Additional fees and interest may accrue if the loan is rolled over or refinanced; and
 - c. Credit counseling services are available to consumers who are experiencing financial problems.
- iii. Nothing in this section prohibits a Lender from refinancing the principal amount of a short-term consumer loan or an installment loan, subject to the limitations and requirements imposed herein.
- iv. Every Lender must post on any website a prominent statement that: “This loan is not intended to meet long-term financial needs.”

J. Attorney’s Fees; Costs. In the event a consumer defaults under the terms of a loan, the Lender may, if the consumer’s account is referred to an attorney (not a regularly salaried employee of the Lender) or to a third party for collection and if the agreement governing, or the bond, note or other evidence of, the loan so provides, charge and collect from the consumer a reasonable attorney’s fee. In addition, following a consumer’s default, the Lender may, if the agreement governing, or the bond, note or other evidence of, the loan so provides, recover from the consumer all court, alternative dispute resolution or other collection costs (including, without limitation, fees and charges of collection agencies) actually incurred by the Lender.

K. Application of Other Laws. Any federal law not applicable to Indian Pueblos or state law limiting the rate or amount of interest, discount, points, finance charges, service charges or other charges which may be charged, taken, collected, received or reserved shall not apply to extensions of credit under a Loan operated in accordance with this subpart.

L. No Oral Agreements. A Consumer Financial Services transaction may provide that it represents the entire agreement of the parties and may not be contradicted by evidence of prior, contemporaneous, or subsequent

oral agreements of the parties. Such provisions are enforceable and disallow evidence of oral agreements.

M. Enforcement of Licensee's Rights and Remedies. In any proceeding in which a Licensee is a party in interest with respect to any transactions with a consumer, the Licensee's rights and remedies shall be granted based upon prima facie proof and entitlement based upon the terms of the written transaction documents and the payment and business records maintained by the Licensee in the ordinary course of business.

(i) Enforcement.

1. Jurisdiction. Except as provided otherwise in this Code, the Authority shall have jurisdiction over all violations of this Code.

2. Guidelines. In imposing any administrative remedy or civil penalty provided for in this Code, the Authority shall take into account the appropriateness of the remedy or penalty with respect to the size of the financial resources and good faith of the Financial Services Licensee charged, the extent to which the violation was intentional, the gravity of the violation, the history or previous violations, and such other matters as justice may require.

3. Civil Violations. Any Financial Services Licensee who violates or fails to comply with any provision of this Code or who fails or neglects to comply with any final order of the Authority may be charged with a violation and given due process pursuant to Section (d)10 herein. If the Licensee or Person is found to have committed a violation, he/it may be required to pay a civil fine to the Authority not to exceed five thousand dollars (\$5,000) for each violation. Each day during which any such violation or failure to comply continues may be treated as a separate violation of this Code, but not to exceed one hundred thousand dollars (\$100,000). A violation or series of violations related to the same act or omission may be treated as one violation.

A. A Financial Services Licensee, or Employee Licensee found responsible for a material violation pursuant to this Section may also be subject to revocation of the Licensee's License.

B. An officer or agent of a business entity who knowingly or recklessly participates in a material violation of this Code may be subject to termination by the Authority.

4. Cumulative Fines. All civil fines accruing under this Code shall be cumulative and a suit for the recovery of one fine shall not bar or affect the recovery of any other fine, or judgment, penalty, forfeiture or damages nor bar the power of a court of competent jurisdiction to enter an order of contempt, nor bar any criminal prosecution against any officer, director, agent, or employee of any Licensee, or any other Person.

5. Purpose of Civil Penalties. The civil fines imposed under this Code are intended to be remedial and not punitive and are designed to compensate the Pueblo for the damage done to the peace, security, economy and general welfare of the Pueblo, and to compensate the Pueblo for costs incurred by the Pueblo in enforcing this Code. The civil fines under this Code are also intended to coerce all people into complying with this Code and Authority regulations and not to punish such people for violation of such laws and regulations.

6. Civil Action for Penalties. In enforcing the civil infraction provisions of this Code, the Authority may proceed, in the name of the Pueblo against a Person for violation of such provision by civil complaint in a court of competent jurisdiction pursuant to the provisions of this Code.

7. Seizure and Forfeiture of Property. Property utilized in violation of this Code shall be subject to seizure and forfeiture by order of the Authority pursuant to such implementing regulations as the Authority shall promulgate.

(j) Resolving Borrower Disputes.

1. General Principles. The Pueblo values its customers and intends, at all times, to see that questions, concerns, issues, and/or disputes raised by consumer borrowers are addressed in a fair and orderly manner. However, nothing in this Section shall be construed as a waiver of the sovereign immunity of the Pueblo or of the Authority or any of the rights and privileges attendant thereto.

2. Initial Dispute Resolution Procedure.

A. Consumers who, in the course of their otherwise lawful and proper use of a Licensee's business, have concerns about the operation of any part of the Licensee's operation that pertain to the borrower or who otherwise believe themselves to be aggrieved by some aspect of the operation of any part of the Licensee's business, shall direct their concerns or dispute in the first instance to the management of the Licensee, either orally or in writing.

B. Upon learning about a dispute, a Licensee shall notify the consumer of his or her right to contact the Authority about the dispute and his or her rights to pursue formal dispute resolution under Section (j)3. The Licensee shall also expediently gather sufficient facts to make a determination about the dispute. The Licensee shall inform the complainant, either orally or in writing, about its initial determination as soon as is reasonably practicable.

C. Payment and servicing disputes from a consumer regarding the conduct of a Financial Services Licensee are also subject to the terms and conditions of the consumer loan agreement entered by and between the parties, which may provide alternative means of dispute resolution for certain terms of individual consumer loan agreements. However, to the

extent a consumer's complaint deals with compliance with this Code, the Authority shall have exclusive jurisdiction.

3. Formal Dispute Resolution Procedure.

A. In the event of a compliance dispute brought forth by a consumer, complainants who have followed the initial dispute resolution procedure described in Section (j)2 and who are dissatisfied with a Licensee's initial determination, may request review of the initial determination by the Licensee by submitting a request to the Authority in writing no later than ten (10) days after being informed about the initial determination by the Licensee.

B. The Authority may investigate the dispute in any manner it chooses. The Authority shall offer the complainant a fair opportunity to be heard regarding the dispute, in person or through telephonic conference, either before or after the Authority makes its own inquiries. A complainant may be represented by legal counsel at the consumer's own expense. The complainant's opportunity to be heard, if granted, shall take place, except as determined by the Authority, no less than ten (10) days and no more than sixty (60) days after the Authority receives the complainant's written request. In connection with a dispute, the Authority may conduct and issue such review, interviews, sworn statements, depositions, and other discovery as the Authority requests. In each instance, the Licensee, complainant and other interested persons must cooperate with the Authority and provide such information and documents as the Authority deems necessary or advisable to make a determination.

C. After reviewing and/or investigating (if the Authority chooses), and within thirty (30) days after affording the complainant an opportunity to be heard (if the complainant chooses), the Authority shall issue a written opinion on the complainant's written request for review, and shall mail a copy of the opinion to the complainant at his/her last known address. The Authority may grant or deny a consumer complaint and grant or deny such relief, if any, as the Authority determines in its sovereign discretion; provided no monetary relief in excess of one thousand dollars (\$1,000) may be granted by the Authority without the express approval of the Tribal Council. The opinion shall inform the complainant that he or she may appeal the Authority's decision as set forth in this Section.

D. A complainant may appeal an Authority opinion by filing a written appeal to the Tribal Council within twenty (20) days of receiving the Authority's final written decision. Except as determined by the Tribal Council, the Tribal Council shall place the matter on the agenda of its next regularly scheduled meeting. Any decision of the Tribal Council on appeal shall be final and not subject to further appeal.

E. As an alternative or supplement to the consumer dispute resolution procedures set forth in this Section, the Tribal Council, in its sole discretion, may provide on a case-by-case basis dispute resolution procedures by outside service providers or tribunals on such terms and conditions as determined by the Tribal Council.

F. The tribal dispute resolution process authorized under this Code is considered by the Pueblo to constitute a petition for redress submitted to a sovereign government, without waiver of sovereign immunity or exclusive jurisdiction, and does not create any binding procedural or substantive rights for a complainant. Any determination by or on behalf of the Pueblo, whether procedural or substantive, shall be made by the Pueblo in its sovereign discretion.

R-3 Professional Athletic Competition Code

(a) Definitions.

1. “Athletic and sporting activity or competition” includes only those events occurring on Pueblo lands and conducted primarily for commercial purposes and for the purpose of generating income to the Pueblo of Pojoaque, promoters, participants, and others.

2. “Commission” or “PPAC” means the Pueblo of Pojoaque Athletic Commission;

3. “Contestant” means a person who engages in unarmed combat for remuneration;

4. “Council” or “Tribal Council” means the governing body of the Pueblo of Pojoaque which is responsible for passing resolutions, setting policy and making decisions;

5. “Foreign co-promoter” means a promoter who has no place of business in New Mexico;

6. “Manager” means:

A. a person who:

i. undertakes to represent the interests of another person by contract, agreement or other arrangement in procuring, arranging or conducting a professional contest or exhibition in which the represented person will participate as a contestant;

ii. directs or controls the activities of an unarmed combatant relating to the participation of the unarmed combatant in professional contests or exhibitions;

- iii. receives or is entitled to receive at least ten percent of the gross purse or gross income of any professional unarmed combatant for services relating to the participation of the unarmed combatant in a professional contest or exhibition; or
- iv. receives compensation for services as an agent or representative of an unarmed combatant; and

B. does not include a licensed attorney if the attorney's participation in any of the activities described in Paragraph (A) of this subsection is limited solely to the legal representation of a client who is an unarmed combatant;

7. "Professional boxer" or "professional wrestler" means an individual who competes for money, prizes or purses or who teaches, pursues or assists in the practice of boxing, wrestling or martial arts as a means of obtaining a livelihood or pecuniary gain;

8. "Professional contest" means any professional boxing, wrestling or martial arts contest or exhibition, whether or not an admission fee is charged for admission of the public;

9. "Promoter" means any person, and in the case of a corporate promoter includes any officer, director or stockholder of the corporation, who produces or stages any professional boxing, wrestling or martial arts contest, exhibition or closed circuit television show;

10. "Purse" means the financial guarantee or any other remuneration, or part thereof, for which professional boxers or professional wrestlers are participating in a contest or exhibition and includes the participant's share of any payment received for radio broadcasting, television or motion picture rights;

11. "Ring official" means any person who performs an official function during the progress of a contest or exhibition;

12. "Unarmed combat" means boxing, wrestling, martial arts or any form of competition in which a blow is usually struck that may reasonably be expected to inflict injury; and

13. "Unarmed combatant" means:

A. a person who engages in unarmed combat in a contest or exhibition, whether or not the person receives remuneration, including a wrestler, boxer, mixed martial artist or other contestant; or

B. an amateur boxer who is registered with United States amateur boxing, incorporated, or any other amateur organization recognized by the Commission and participates in an amateur boxing contest or exhibition in

a state that is registered and sanctioned by United States amateur boxing, incorporated or golden gloves of America.

(b) Commission Created; Purpose; Authorities and Restrictions. There is created the “Pueblo of Pojoaque Athletic Commission,” a governmental regulatory subdivision of the Pueblo of Pojoaque.

1. Purpose. The purpose of the Commission is to regulate the conduct of each athletic and sporting activity or competition that is authorized by the Tribal Council to be conducted. The PPAC shall be responsible for the regulation and licensure of any athletic and sporting activity or competition which occurs on Pueblo of Pojoaque lands to ensure that the conduct of such activity comports with all Athletic Commission Rules and Regulations and laws of the Pueblo of Pojoaque.

2. Location and Place of Business. The PPAC may maintain its principal place of business and office within the Pueblo’s government offices, or as otherwise may be determined by the Commission to be in the best interest of the Pueblo.

3. Duration. The Commission shall have perpetual existence and succession in its own name, unless dissolved by the Tribal Council pursuant to the laws of the Pueblo.

4. Attributes. As a governmental subdivision of the Pueblo, the Commission is under the direction and control of the Council, and it is the purpose and intent of the Council that the operations of the Commission be conducted on behalf of the Pueblo for the sole benefit and interests of the Pueblo, its members and residents of and visitors to the Pueblo’s jurisdictional land.

A. Arm of the Pueblo. In carrying out its purposes under this Resolution, the Commission shall function as an arm of the Pueblo.

B. Pueblo Actions. Notwithstanding any authority delegated to the Commission, the Pueblo reserves to itself the right to bring suit against any person or entity in its own right, on behalf of the Pueblo or on behalf of the Commission whenever the Pueblo deems it necessary to protect the sovereignty, rights and interests of the Pueblo or the Commission.

C. Privileges and Immunities of the Pueblo. The Commission shall possess all of the privileges and immunities of the Pueblo.

D. Privileges and Immunities for Tax Purposes. The Commission and its assets and activities shall have the same privileges and immunities from federal, state, and local government taxation as the Pueblo and its assets and activities. As a political subdivision of an Indian tribal government, the Commission shares the same tax status as the Pueblo for federal, state and local tax purposes.

5. Sovereign Immunity of the Pueblo of Pojoaque Athletic Commission.

A. Immunity from Suit. The Commission shall possess all the privileges and immunities of the Pueblo and its assets, except as otherwise specifically limited by Tribal Council, including sovereign immunity from suit in any tribal, federal or state court.

B. Waiver of Sovereign Immunity of the Commission. Sovereign immunity of the Commission may be waived only by express resolution of the Tribal Council.

- i. Resolution Effecting Waiver. All waivers of sovereign immunity must be in written Tribal Council resolutions of continuing force and effect issued by the Tribal Council.
- ii. Policy on Waiver. Waivers of sovereign immunity are disfavored and shall be granted only when necessary to secure a substantial advantage or benefit to the Commission or the Pueblo.
- iii. Limited Nature of Waiver. Waivers of sovereign immunity shall not be general but shall be specific and limited as to duration, grantee, transaction, property or funds, if any, of the Commission subject thereto, and the court having jurisdiction pursuant thereto and law applicable thereto.

6. Assets of the Commission. The Commission shall have only those assets specifically assigned to it by the Council, acquired in its name by the Pueblo, or acquired by the Commission on its own behalf. No activity of the Commission or any indebtedness incurred by it shall implicate or in any way involve any assets of tribal members or the Pueblo not assigned in writing to the Commission.

7. Authorized Athletic and Sporting Activities or Competitions.

A. Only those sporting activities expressly authorized and regulated by the Commission, or as may be authorized from time to time by the Council, shall be conducted on the Pueblo. Any sporting activity conducted in violation of this Resolution shall be subject to prosecution or civil forfeiture of sales and other revenues generated by such event.

B. The Commission shall permit and shall regulate only those athletic and sporting activities or competitions specifically authorized by the Council and as permitted by applicable law. The following sporting activities are authorized by the Tribal Council:

- i. Boxing, amateur and professional;
- ii. Wrestling, amateur and professional; and

iii. Mixed martial arts (MMA), amateur and professional.

(c) Establishment; Qualifications; Removal; Budget.

1. Establishment of the Pueblo of Pojoaque Athletic Commission. The Council shall appoint the members of the PPAC for terms of two (2) years each, or until resignation, removal, or until the Council re-appoints members or appoints their replacements. The PPAC shall consist of five members appointed by the Council at its discretion.

2. Commission Qualifications; Removal from Office. Commission members may be removed by the Council, at the will of the Council. Members shall not be involved in the promotion of sporting activities on Pueblo of Pojoaque lands during their term of office.

3. Budget; Staff. It is expected that the Commission shall be self-supporting, either through the assessment of licensing fees or the assessment of other charges against athletic and sporting activities or competitions regulated by the Commission. The Commission may hire staff as necessary and appropriate, and as the Commission's budget permits. Any staff shall be employees of the Pueblo of Pojoaque, subject to the Pueblo's personnel policies.

4. The Commission may adopt rules and regulations for the administration of this Code not otherwise inconsistent with the laws of the Pueblo of Pojoaque or applicable federal law. All rules and regulations shall be kept on file at the Commission offices and provided to the public upon request. The rules and regulations shall include, but not be limited, to the:

- A. number and qualifications of ring officials required in a professional contest;
- B. powers, duties and compensation of ring officials; and
- C. qualifications of licensees.

5. The Commission shall prepare all forms of contracts between sponsors, licensees, promoters and contestants.

(d) Jurisdiction of Commission Over Professional Contests. The Commission shall have sole direction, management, control and jurisdiction over all professional contests to be conducted, held or given within the Pueblo of Pojoaque, and no professional contest shall be conducted, held or given within the exterior boundaries of the Pueblo except in accordance with this Code and the laws of the Pueblo of Pojoaque.

(e) Jurisdiction of Commission Over Unarmed Combat Contests.

1. The PPAC shall have sole direction, management, control and jurisdiction over all contests or exhibitions of unarmed combat to be conducted, held or given within the

Pueblo of Pojoaque, and no contest or exhibition may be conducted, held or given within the Pueblo except in accordance with the provisions of this Code and the laws of the Pueblo of Pojoaque.

2. Any contest involving a form of Oriental unarmed self-defense must be conducted pursuant to rules for that form that are approved by the Commission before the contest is conducted, held or given in the Pueblo.

(f) Licenses to Conduct Professional Contests.

1. The Commission may issue licenses to conduct, hold or give a professional contest to any promoter under such terms and in accordance with such rules as the Commission may adopt.

2. Any application for such a license shall be in writing and shall correctly show the promoter. The application shall be accompanied by the annual fee prescribed by law.

3. Before any license is granted to a promoter, the promoter must file a bond in an amount fixed by the Commission with good and sufficient surety and conditioned for the faithful performance by the promoter of the provisions of this Code.

(g) Licenses for promoters, boxers, wrestlers, trainers, ring officials and others.

1. All promoters, foreign co-promoters, matchmakers, professional boxers, professional wrestlers, managers, seconds, announcers, referees, trainers, booking agents and timekeepers shall be licensed by the Commission.

2. No person shall be permitted to participate, either directly or indirectly, in any professional contest unless such person shall have first procured a license from the Commission.

(h) License fees. The PPAC shall set an annual license by December 1st to be effective January 1st the following calendar year. Every license shall expire at midnight on December 31 of the year in which the license is issued.

(i) Real party in interest. The Commission shall not issue any license for a professional contest unless it is satisfied that the promoter is the real party in interest and intends to conduct, hold or give such contests himself, or unless the promoter receives at least twenty-five percent of the net receipts. A license may be revoked at any time if the Commission finds that the promoter is not the real party in interest.

(j) Suspension; Revocation of Licenses.

1. The Commission may suspend or revoke any license when in its judgment the licensee:

A. participated in any sham or fake professional contest;

- B. fails to give his best efforts in a professional contest;
- C. is guilty of any foul or unsportsmanlike conduct in connection with a professional contest; or
- D. participates in an event while under the influence of illegal drugs.

2. Before revocation of a license, the Commission shall afford the licensee opportunity for a hearing, and upon request of the licensee and after reasonable notice, the Commission shall conduct a hearing on the revocation, permitting the licensee to appear personally and by counsel, introduce evidence and examine and cross-examine witnesses.

3. A majority vote of the members of the Commission is required to revoke a license.

(k) Contracts.

1. Every professional boxer or professional wrestler competing in a professional contest shall be entitled to receive a copy of a written contract or agreement approved as to form by the PPAC binding a licensee to pay the professional boxer or professional wrestler a certain fixed fee or percentage of the gate receipts.

2. One copy of such contract or agreement shall be filed with the Commission and one copy shall be retained by the licensee or promoter of the professional contest.

(l) Insurance. The Commission may by rule require insurance coverage for each licensed professional boxer or professional wrestler to provide for medical, surgical and hospital care for injuries sustained while preparing for or engaged in a professional contest payable to such boxer or wrestler as beneficiary.

(m) Advances Against Contestant's Purse. No promoter or foreign co-promoter shall pay or give any money to a licensee before any professional contest as an advance against a contestant's purse or for a similar purpose, *except that* a promoter may, with the prior written consent of the Commission, pay or advance to a contestant necessary expenses for transportation and maintenance in preparation for a professional contest.

(n) Withholding of Purse.

1. The Commission may order a promoter to withhold any part of a purse or other funds belonging or payable to any contestant, manager or second if, in the judgment of the Commission, the contestant is not competing honestly or to the best of his skill and ability or if the manager or second has violated any of the provisions of this Code or any rule promulgated thereunder.

2. This section does not apply to any professional wrestler who appears not to be competing honestly or to the best of his skill and ability.

3. Upon the withholding of any part of a purse pursuant to this section, the commission shall immediately schedule a hearing on the matter as promptly as possible. If it is determined that such contestant, manager or second is not entitled to any part of his share of the purse or other funds, the promoter shall turn such money over to the Commission and it shall become forfeit to the Pueblo and be disposed of as are fees.

(o) Attendance at Weigh-ins; Medical Examinations; Professional Contests.

1. A member of the Commission shall be present at all weigh-ins, medical examinations and professional contests and shall see that the provisions of this Code and the rules made pursuant thereto are strictly enforced.

2. Every participant in a professional boxing contest shall be present and weighed in no later than twelve o'clock noon on the day of the professional contest.

(p) Length of professional contests; Rounds. No professional boxing contest shall be more than fifteen rounds in length, and each round shall not exceed three minutes in length. There shall be a one-minute rest between rounds. The Commission shall adopt rules governing the length of professional wrestling contests, duration of rounds and the period of rest between rounds.

(q) Minors; Participants. No person under the age of majority shall participate in or be licensed for any professional contest.

(r) Regulatory fees on promotions.

1. In addition to any other taxes or fees provided by law, there is imposed upon every promoter for the privilege of promoting a professional contest a regulatory fee in an amount determined pursuant to the rules of the Commission to be sufficient to cover the costs of regulating the contest.

2. The Commission shall adopt rules for the administration, collection and enforcement of the fee imposed pursuant to this section.

3. As used in this section, "total gross receipts of any professional contest" includes:

A. the gross price charged for the sale, lease or other exploitation of broadcasting, television or motion picture rights of the professional contest without any deductions for commissions, brokerage fees, distribution fees, advertising or other expenses or charges;

B. the face value of all tickets sold and complimentary tickets issued; and

C. any sums received as consideration for holding a professional contest at a particular location.

(s) Time of Payment of Regulatory Fee.

1. Any person upon whom the regulatory fee is imposed shall, within seventy-two hours after the completion of any professional contest for which an admission fee is charged and received or a contribution is requested and received, furnish to the Commission a written report on forms prescribed by the Commission showing:

- A. the number of tickets sold and issued or sold or issued for the professional contest;
- B. the amount of the gross receipts or value thereof;
- C. the amount of gross receipts derived from the sale, lease or other exploitation of broadcasting, motion picture or television rights of the professional contest, without any deductions for commissions, brokerage fees, distribution fees, advertising or any other expenses or charges; and
- D. such other matters as the commission may prescribe.

2. The Commission may inspect the books, ticket stubs or any other data necessary for the proper enforcement of the regulatory fee and supervisory fee.

(t) Supervisory Fee on Closed-circuit Telecasts or Motion Pictures; Report to Commission.

1. Any person who charges and receives an admission fee for exhibiting any live professional contest on a closed-circuit telecast or motion picture shall, within seventy-two hours after the event, furnish to the Commission a verified written report on a form prescribed by the Commission showing the number of tickets sold and issued or sold or issued and the gross receipts for the exhibition without any deductions.

2. There is imposed a supervisory fee upon the privilege of exhibiting for an admission fee any live professional contest on a closed-circuit telecast or motion picture. A supervisory fee is imposed in an amount determined pursuant to the rules of the Commission to be sufficient to cover the costs of supervising the exhibition; provided that the fee shall not exceed five percent of the gross receipts derived from the exhibition.

(u) Protective Headgear Required in all Amateur Boxing. No person shall permit, sponsor or promote any amateur to train as a boxer, engage in boxing matches or compete in boxing events without wearing protective headgear meeting the standards approved under the official rules of the USA Amateur Boxing Federation.

Subpart S Employment Law & Labor Relations

S-1 Employee Drug Testing Policy and Procedures for Employees of the Pueblo of Pojoaque Tribal Government

The Pueblo of Pojoaque Tribal Government wishes to protect the health, safety and welfare of the Pueblo of Pojoaque enrolled members, employees and visitors by ensuring a drug-free workplace. Drugs include alcohol. Recognizing that requiring urinalysis and breathalyzer testing for drugs is an invasion of a person's privacy, the Pueblo of Pojoaque drug testing policy has been designed to test for drugs in the most confidential, discreet and sensitive manner possible.

(a) Pre-Employment Drug Testing for Employees. Any person applying for a job through the Pueblo of Pojoaque Tribal Government Human Resources Department may be required to submit to a urinalysis test. The urinalysis test shall be scheduled at the earliest possible date after an offer of employment is made by the Pueblo of Pojoaque Tribal Government.

(b) Random Drug Testing Safety Sensitive Jobs. Any employee who works in a safety-sensitive job may be tested at random through urinalysis or a breathalyzer test. Random testing may be done when required by the Department director. Testing may only be done when there is a random choice of employees to be tested and where all employees in the safety-sensitive job are included in the employee pool to be tested.

A safety-sensitive job is defined as a job where:

1. Errors in judgment, inattentiveness or diminished coordination, dexterity or composure while performing their duties could clearly result in mistakes that would endanger the health and safety of others;
2. The worker is responsible for supervision of children; and
3. Any job where a Pueblo of Pojoaque motor vehicle is operated and the motor vehicle is listed in the Pueblo of Pojoaque's motor vehicle insurance.

The Pueblo of Pojoaque has designated the following jobs as safety-sensitive: All positions in the Tribal Works Department, Day Care Center, and Boys and Girls Club, any Tribal Police officers who are authorized to carry weapons, and any person who operates a Pueblo of Pojoaque-owned motor vehicle that is insured by the Pueblo of Pojoaque insurance is in a safety-sensitive position.

(c) Drug Testing when there is Articulate, Reasonable Suspicion that the Employee is Using Drugs. Any employee may be tested through urinalysis or a breathalyzer when reasonable suspicion of drug use is supported by facts. Facts include, but are not limited to: intoxication at the workplace; on-duty accidents or incidents that may be caused by drug use; violation of safety precautions that may be caused by drug use; or possession of drugs and/or alcoholic beverages.

(d) Laboratories Authorized to Conduct Drug Testing.

Drug test samples shall be analyzed by:

1. A commercial laboratory meeting standards that are the same as those used by the Department of Health and Human Services (DHHS)/National Institute on Drug Abuse (NIDA) to certify laboratories engaged in urine drug testing for Federal agencies (Mandatory Guidelines for Federal Workplace Drug Testing Program, Federal Register, Vol. 53, No. 69) or those standards used by the College of American Pathologists (CAP) to accredit laboratories for forensic urine drug testing (Standards for Accreditation, Forensic Drug Testing Laboratories, College of American Pathologists): and

- A. Is capable of same site initial screening and confirmatory tests,
- B. Utilizes FDA-approved immunoassay tests, and
- C. Participates in a laboratory proficiency testing program.

(e) Required Components for Drug Testing. Any drug testing or retesting procedure shall include all of the following:

1. The drug screening methodology to be used, which shall be a type of immunoassay, except that another may be used if a department can demonstrate that it is equally reliable as immunoassay;

2. The drugs to be tested, which shall only include the following drugs of abuse:

- A. Amphetamines and Methamphetamines
- B. Cocaine
- C. Marijuana/Cannabinoids (THC)
- D. Opiates (narcotics)
- E. Phencyclidine (PCP)
- F. Alcohol, testing may be conducted through breath testing devices or urine specimens
- G. Barbiturates
- H. Methadone
- I. Propoxyphene

3. Cutoff levels for screening tests that will identify positive samples while minimizing false positive test results;
4. Chain of custody provisions, which shall include at least the following:
 - A. A procedure to assure that a valid specimen is acquired, the donor is properly identified, and that no tampering or mishandling of the specimen occurs from initial collect to final disposition. Specimen handlers shall be certified through the laboratory that tests the specimens.
 - B. A written log in which is recorded the name, signature, time of receipt, and time of release of each person handling, testing or storing each specimen, and reporting test results.
 - C. Collection of specimen samples in a clinical setting such as a laboratory collection station, doctor's office, hospital or clinic, or in another setting approved by the Gaming Commission's Executive Director on the basis that it provides an equally secure and professional collection process.
5. Procedure for confirmation of positive screening test results utilizing gas chromatography/mass spectrometry (GS/MS);
6. Notes to the applicant which shall be written and based on the following:
 - A. If the screening test result is negative, the test is concluded and the applicant has passed the drug test.
 - B. If the necessary confirmatory test result is negative, the test is concluded and the applicant has passed the drug test.
 - C. If both the screening test and the confirmatory test results are positive and the opinion is that the positive test results are not because of prescribed or over the counter medication or for any other medically acceptable reasons, the applicant has failed the drug test.
7. Specimen retention and retesting procedure, which shall include at least the following:
 - A. Provisions for retesting of confirmed positive specimens by any laboratory authorized to conduct drug testing, at the request of an applicant and at the applicant's expense, provided that the request is received within thirty (30) days of notifying the applicant of his or her disqualifications. Retesting shall correspond exactly with the initial methods and procedures.
8. Provisions for maintain the confidentiality of test results, which shall include at least the following:

A. The results of any test shall be given only to the applicant who was tested, the Tribal Secretary and/or their representative. The test results cannot be revealed to any other party without the written authorization of the person tested.

B. However, the Tribal Secretary may reveal that a drug test was failed and give other relevant information to the Human Resources Department.

C. All drug test results shall be kept under lock and key and only accessible to the Tribal Secretary or their designee.

(f) Consequences of Failing or Refusing to Take the Drug Test.

1. Applicants for a job who fail the pre-employment drug test may be ineligible for employment for a specific period of time.

2. Any employee failing a drug test may be terminated.

3. Any employee failing a drug test may lose New Mexico Worker's Compensation benefits.

4. Termination may not be affected should the employee enter a drug treatment program after a drug test is failed.

5. A person covered by this policy who refuses to take the drug test may be terminated.

(g) Employee Assistance Program. Employees with a drug or alcohol abuse problem may seek assistance from the Human Resources Department. While the Pueblo of Pojoaque is not financially responsible for employee treatment, paid or unpaid administrative leave may be granted during the treatment program.

(h) Penalties for Failure of Employees of Tribal Programs to Pass Drug/Alcohol Tests.

1. The Pueblo of Pojoaque Tribal Council passed a comprehensive drug and alcohol policy in Tribal Council Resolution 1994-15. For employees of Tribal programs, the penalties included in this Resolution supersede Tribal Council Resolution 1994-15. The remaining provisions in Tribal Council Resolution 1994-15 remain in effect.

2. If there is reasonable suspicion that an employee is using illegal drugs, pharmaceutical drugs that are not prescribed by a physician, or using alcohol to the extent that job performance may be impaired, they may be tested for drug/alcohol use. These penalties also apply to random drug/alcohol tests and drug/alcohol tests for safety-sensitive positions.

3. If the first drug/alcohol test is positive, the employee may request a second test, at their own expense, to ensure the validity and reliability of the first test. The second drug/alcohol test must be requested and taken within an hour of receiving the result of the first drug/alcohol test.

4. If the employee tests positive for drug/alcohol use described above, they shall be subject to First Offense Penalties.
5. First Offense Penalties are mandatory. First Offense Penalties include at a minimum, that the employee shall be given one (1) week of leave without pay. Leave without pay shall continue until the employee's test results are negative. Upon returning to work, the employee shall be placed on three (3) months of probation during which time they may be subject to random drug testing at the discretion of their Department Supervisor or a Tribal Official. The employee shall be responsible for the costs of all drug-testing within the probationary period.
6. Second Offense Penalties are mandatory. After a second offense, employment is terminated for one (1) year.
7. Federal or State grant employees. If the employee is paid through a Federal or State grant, and the employee tests positive for alcohol or drugs, the employee shall be terminated immediately upon the first offense.
8. DUI Convictions. At the discretion of the Department Supervisor or Tribal Official, any employee convicted in any Court of Driving under the Influence may be subject to the First and Second Offense Penalties.
9. Procedure. Upon receiving notification that the employee has tested positive for drugs/alcohol, the Department Supervisor shall immediately forward the notification to the Human Resources Department. The Human Resources Department shall then immediately apply the penalties.

S-2 Drug-Free Workplace Act

- (a) The Pueblo of Pojoaque does not differentiate between drug users and drug pushers or sellers. Any employee who gives or in any way transfers a controlled substance to another person or sells or manufactures a controlled substance will be subject to discipline up to and including dismissal.
- (b) The term controlled substance means any drug considered unlawful according to federal regulations.
- (c) An employee is required by law to inform his or her immediate supervisor or the Governor within five (5) days after he or she is convicted for violation of any federal or state criminal drug statute at the workplace.
- (d) The personnel officer of any agency receiving federal funds must notify the U.S. Government agency with which the contract was made within ten (10) days after receiving notice from the employee or otherwise receiving actual notice of the conviction.

(e) If an employee is convicted of violating any criminal drug statute while in the workplace, he or she will be subject to discipline as determined by the Pueblo of Pojoaque Tribal Council. The Tribal Council shall determine the extent of discipline up to and including dismissal. Alternatively, the Tribal Council may require the employee to undergo treatment at an approved private or governmental institution.

(f) Employees will receive notification of all programs and services available to the Pueblo of Pojoaque by the Eight Northern Indian Pueblos Substance Abuse Prevention Program.

(g) Employees will be required to sign a certification form stating compliance with the Pueblo of Pojoaque's policy statement regarding the Drug-Free Workplace. This requirement is included in the orientation checklist to be completed by each new employee.

(h) As a condition of further employment on a federal government contract, the law requires all employees to abide by this policy.

S-3 Labor Organization Ordinance

(a) Definitions. For purposes of this Ordinance:

1. "Business agent" means any person who acts or attempts to act for, or on behalf of, any labor organization in:

A. The issuance of membership or authorization cards, work permits, or any other evidence of rights granted or claimed in, or by, a labor organization; or

B. Soliciting or receiving from any employer any right or privilege for employees.

2. "Employer" means any person, firm, association, corporation and other business entity lawfully operating on the Pueblo lands, including the Pueblo and its instrumentalities, enterprises, corporations or other subordinate economic organizations owned by the Pueblo.

3. "Labor organization" means any organization of any kind or any agency or employee representation committee or plan in which employees organize for the purpose, in whole or in part, of dealing with an employer concerning hours of employment, rate of pay, wages, working conditions, or grievances of any kind relating to employment and desiring to operate on the Pueblo lands.

4. "Ordinance" means the Pueblo of Pojoaque Labor Organization Ordinance.

5. "Person" means any individual, employer, labor organization, corporation, association, company, firm, partnership or other entity.

6. "Pueblo" means the Pueblo of Pojoaque, a federally-recognized Indian tribe.

7. “Pueblo lands” means the lands anywhere within the exterior boundaries of any grant from a prior sovereign, as confirmed by Congress or the Court of Private Land Claims to a Pueblo Indian Tribe of New Mexico; or lands held in trust by the federal government for the benefit of the Pueblo or any other lands subject to the jurisdiction of the Pueblo.
8. “Governor” means the Governor of the Pueblo or his designee.
9. “Tribal Council” means the governing body of the Pueblo.
10. “Tribal Court” means the Pueblo of Pojoaque Tribal Court.
11. “Tribal Criminal Offense” means any action that violates Subpart M (Criminal Code) of the Pueblo of Pojoaque Law and Order Code, any applicable public policies, memorandums and resolutions regarding the Law and Order Code, as previously enacted. Such offenses include, but are not limited to, assault, battery, theft, bribery, conspiracy, negligence, disorderly conduct, extortion, misusing property, malicious mischief and trespass.
12. “Corporate Team Member” is defined as a Team Member who works for one of the Corporate Employers owned by the Pueblo of Pojoaque and its instrumentalities as provided under *Section III A of the Corporate Team Handbook*.
13. “Corporate Employer” is defined as a corporation owned by the Pueblo. The Pueblo, in its governmental capacity, charters for-profit corporations. The corporations chartered by the Pueblo are also owned by the Pueblo and are referred to in the Corporate Team Member Handbook as “Corporate Employers.” The Corporate Employers include, but are not limited to:
 - Buffalo Thunder Inc. (BTI)
 - Pojoaque Gaming Inc.(PGI)
 - Pueblo of Pojoaque Enterprise Corporation (PPEC)
 - Pueblo of Pojoaque Commercial Development Corporation (PPCDC)
 - Pueblo of Pojoaque Development Corporation (PPDC)

(b) As provided under *Section III B. of the Corporate Team Handbook*,

1. Tribal Council Findings. The Tribal Council finds that The Pueblo possesses the inherent power to exclude persons from Pueblo lands which includes the lesser power to place conditions on entry, on continued presence, or on conduct on Pueblo lands;
2. Various labor organizations and their business agents may attempt to enter Pueblo lands without the authorization of the Pueblo through their connection with employers who have lawfully entered Pueblo lands pursuant to leases, rights-of-ways and other consensual relationships with the Pueblo;

3. The unauthorized entry of various entities and persons on Pueblo lands threatens the political integrity, economic security and the health, safety and welfare of the Pueblo and its members and visitors in the overall direction and policy for the economic development of the Pueblo;

4. The individual freedom of choice in the pursuit of employment on Pueblo lands should be encouraged as a matter of the public policy and law of the Pueblo; and

5. The right to work should not be subject to undue restraint, coercion, or infringed upon based on membership in, affiliation with, or financial support of a labor organization, or upon the refusal to join, affiliate with, or financially or otherwise support a labor organization.

(c) Jurisdiction. All persons who enter Pueblo lands shall be deemed to have given implied consent to the jurisdiction of the Pueblo and shall be subject to the provisions of this Ordinance.

(d) Registration of Labor Organizations.

1. Every labor organization operating on Pueblo lands shall file a report with the Governor, within sixty (60) calendar days after this Ordinance is enacted by the Tribal Council and/or at least sixty (60) calendar days prior to any activity on Pueblo lands or prior to activity related to employees or workers performing work or services on Pueblo lands and thereafter on or before December 31 of each year. The report, which shall be filed by the president or the business agent of the labor organization, shall contain the following information:

A. The name and address of the labor organization.

B. The names and addresses of the president, secretary, treasurer, and business agent of the labor organization.

C. The name and address of the national or international organization, if any, with which it is affiliated.

D. A copy of the collective bargaining agreement between the labor organization and an employer, if any.

2. At the time of filing the report, the labor organization shall pay an annual fee of twenty-five dollars (\$25.00).

3. The president or the business agent of the labor organization shall file with the Governor a notice of changes to the information required by this Section within ten (10) days after the changes are made, and provide any additional information requested by the Governor.

(e) Business Agent.

1. All licenses shall be non-transferable or non-assignable.
2. Any person desiring to act as a business agent on Pueblo lands shall first obtain a license from the Pueblo by: (i) filing an application under oath with the Governor; (ii) paying a license fee of twenty five dollars (\$25.00); (iii) submitting a full set of fingerprints of the applicant, which shall be taken by the Pueblo of Pojoaque Tribal Police Department or other law enforcement agency authorized by the Tribal Council to do so; and (iv) submitting a statement signed by the president and the secretary of the labor organization showing his authority to act as a business agent for the labor organization.
3. The Governor, in his discretion, may conduct or cause to be conducted an independent background investigation of the applicant to determine the applicant's eligibility for a license.
4. Upon compliance with Paragraph (d), the Governor shall issue the license. If at any time after the issuance of the license the Governor receives reliable information based on the background investigation or other source that the licensee is ineligible to hold a license, the Governor may suspend or revoke the license, in which case the licensee may appeal the suspension or revocation within thirty (30) days to the Tribal Court. The license shall run for the calendar year for which is issued unless sooner surrendered, suspended, or revoked.
5. All licenses shall expire at midnight on December 31 of each year, but may be renewed by the Governor on a form prescribed by the Governor for that purpose and upon the payment of an annual renewal fee of twenty five dollars (\$25.00); however, if any license has been surrendered, suspended or revoked during the year, then the applicant must go through the requirements set forth in Paragraph (d) as a new applicant.
6. Grounds for denial, suspension, or revocation of licenses shall include false application.
7. The Pueblo reserves its right to deny a license to any organization, entity, or person that does not meet the license application requirements or that does not comport to the Pueblo's values and priorities as determined by the Pueblo's authority in its sole discretion. However, the Pueblo will not discriminate against an organization, entity, or person based on any federally-protected classification.

(f) Freedom of Choice Guaranteed.

1. No person shall be required, as a condition of employment or continuation of employment on Pueblo lands, or on lands owned by the Pueblo or any of its instrumentalities, corporations or entities or as an employee of the Pueblo or any of its instrumentalities, corporations or entities or political or economic subdivisions to: (i) resign or refrain from voluntary membership in, voluntary affiliation with, or voluntary financial support of a labor organization; (ii) become or remain a member of a labor

organization; (iii) pay dues, fees, assessments or other charges of any kind or amount to a labor organization; or (iv) pay to any charity or other third party, in lieu of such payments any amount equivalent to or a pro-rata portion of dues, fees, assessments or other charges regularly required of members of a labor organization.

2. Any actual agreement between any labor organization and an employer that violates the rights of employees guaranteed by the provisions of this Ordinance is declared to be against the public policy of the Pueblo and of no legal effect.

3. No person, including any labor organization, employer, or employee, shall commit any tribal offense or threaten, or act against, the health, safety and welfare of the Pueblo and its members and its visitors.

(g) Solicitation and Distribution Policy, Corporate Team Members, Corporations Owned by the Pueblo of Pojoaque, Corporate Team Member Handbook.

Corporate Team Members shall refrain from soliciting other Corporate Team Members during the working hours of either Corporate Team Member. Examples of solicitation include the selling or merchandising of property, seeking contributions or donations for any reason, or seeking signatures in support of any cause.

Corporate Team Members shall refrain at all times from distributing any literature in any work area.

Solicitation of Corporate Team Members or distribution of any literature by non-Corporate Team Members on Pueblo of Pojoaque premises and in work areas is forbidden. The Chief Executive Officer may waive the above under certain circumstances and may make appropriate amendments to the Corporate Team Member Handbook.

(h) Violations of the Ordinance. It shall be a violation of this Ordinance for any person on Pueblo lands:

1. To act as a business agent without having obtained a valid license.
2. To solicit membership for or to act as a business agent of any labor organization without authority of the labor organization to do so.
3. To make any false statement in an application for license.
4. To unlawfully seize or occupy any property during the existence of a labor dispute.
5. To coerce or intimidate any elected or appointed Tribal Official; or to intimidate the family, picket the domicile, or injure the person or property of any employee or Tribal Official.

6. To engage in picketing in any manner which constitutes a Tribal offense, including picketing in a manner to prevent ingress to and egress from any premises, and picketing other than in a reasonable and peaceful manner.
7. To violate the provisions under Paragraph (g).

(i) Penalties. Any person who, directly or indirectly, violates any provision of this Ordinance shall be subject to a fine not exceeding one thousand dollars (\$1,000), or exclusion from Pueblo lands, or both.

(j) Civil Remedies. Any person injured as a result of any violation or threatened violation of the provisions of this Ordinance shall be entitled to injunctive relief from the Pueblo of Pojoaque Tribal Court against any person threatening any violation, and may, in addition, recover any and all damages, including costs and reasonable attorney fees, resulting from the violation or threatened violation. The remedy shall be independent of, and in addition to, any other penalties and remedies prescribed by applicable law.

(k) Severability. The provisions of this Ordinance are declared to be severable, and if any provision is declared void, invalid, or unenforceable in whole or in part, then that declaration shall not affect the remaining provisions of this Ordinance. However, nothing in this Ordinance is intended nor shall be construed to violate the National Labor Relations Act to the extent, if any, as it applies to the Pueblos of New Mexico.

(l) Sovereign Immunity. Nothing in this Ordinance shall be construed as waiving the sovereign immunity of the Pueblo or its agents, employees or officials, or any of the Pueblo's instrumentalities, corporations or entities or their respective officers, directors, employees or agents, nor intended to constitute consent to suit or consent to jurisdiction of any court, administrative agency, arbitrator or other tribunal.

(m) Exclusive Jurisdiction. The provisions of this Ordinance shall be under the sole jurisdiction of the Pueblo of Pojoaque Tribal Court.

S-4 Tribal Employment Rights Office Ordinance

(a) Declaration of Policy. As a guide to the interpretation and application of the Ordinance, the public policy of the Pueblo of Pojoaque is declared to be as follows: land, water, minerals, jobs, subcontracts and contracts in the private sector on or near the Pueblo of Pojoaque are an important resource for Indian people and Indians must use their rights to obtain their rightful share of such opportunities as they become available. Indians have unique and special employment, subcontract and contract rights, and the Pueblo of Pojoaque Tribal Government has the inherent sovereign power to pass laws to implement and enforce those special rights on behalf of Indians. An integral part of attaining this goal is by structuring employment and training opportunities on the Pueblo of Pojoaque to provide for the hiring of Indians who are qualified, and through training of Indians where there are sufficiently qualified Indians to meet employment opportunities. Indians are also entitled to the protection of the laws that the Federal government has adopted to combat employment discrimination, and tribal governments can and should play a role in the enforcement of those laws. The Pueblo of Pojoaque believes it is important to establish an employment rights

program and office in order to use the aforementioned laws and powers to increase employment of Indian workers and businesses and to eradicate discrimination against Indians. Nothing contained in this Ordinance shall violate or undermine federal requirements on equal employment opportunity, namely Title VII of the 1964 Civil Rights Act; and the Office of Federal Contract Compliance Programs (OFCCP) or Executive Order 11246.

(b) Definitions.

1. "Employee" means any person employed for remuneration.
2. "Employer" means any person, partnership, corporation or other entity that employs, for wages, two (2) or more employees or any person who engages in employment or construction activities through paid agents or servants or who is hired on contracts for services within the exterior boundaries of the Pueblo of Pojoaque. The term employer includes any person acting as an agent, contractor, subcontractor of an employer, directly or indirectly, but shall not include the United States or any wholly owned government corporation or any state or political subdivision thereof; but shall include independent contractors and subcontractors of the United States or any wholly owned government corporation or any state or political subdivision thereof.
3. "Covered Employer" means any employer employing two or more employees who during any thirty-(30)-day period spend, cumulatively, forty (40) or more hours performing work within the exterior boundaries of the Pueblo of Pojoaque.
4. "Entity" means any person, partnership, corporation, joint venture, government, governmental enterprise, or any other natural or artificial person or organization. The term "entity" is intended to be as broad and as encompassing as possible to ensure the Ordinance's coverage overall employment and contract activities within the Pueblo's jurisdiction, and the term shall be so interpreted by the TERO Director and the courts.
5. "Commercial Enterprise" means any activity by the Pueblo of Pojoaque or of the federal or state governments that is not a traditional government function as defined by the Internal Revenue Service.
6. "Indian" means any member of a federally recognized tribe.
7. "Indian-Owned Firm or Entity" means any commercial, industrial, or other business activity owned firm or entity, provided that such Indian ownership constitutes not less than fifty-one percent (51%) of the enterprise.
8. "Indian Preference" means that Indians, without regard to tribal affiliation, are given preference over non-resident Indians in employment and training, and that Indians are given preference over non-Indians in employment and training.
9. "TERO Director" is the person appointed by the Tribal Council to administer the TERO Program.

10. “Local Indian” means any member of a federally recognized tribe who resides within the exterior boundaries of the Pueblo of Pojoaque.

11. “Person” shall include both natural and artificial persons including, but not limited to, corporations, trusts, partnerships, unions, agents, societies, sole proprietorships, and estates of decedents.

(c) Employer Reporting Information and Requirements. Every employer is subject to the Pueblo of Pojoaque TERO requirements. All employers shall report to the Pueblo of Pojoaque TERO Director and register his or her business activity. Every employer shall report: the nature of his or her business activity; the number of employees at various stages of the contract/subcontract; total amount of contracts; and provide supporting documents as required for business activity conducted within the exterior boundaries of the Pueblo of Pojoaque.

(d) Indian Preference in Employment. All covered employers, for all employment occurring within the exterior boundaries of the Pueblo of Pojoaque, shall give preference to qualified Indians, with the first preference to local Indians, in all hiring, promotion, training, and all other aspects of employment. Such employers shall comply with the rules, regulations, guidelines and orders of the TERO Director, which set forth the specific obligations of employers in regard to Indian preference and local Indian preference. These requirements shall not apply to any direct employment by the Pueblo of Pojoaque or by the federal, state or other governments or their subdivisions. It shall apply to all contractors or grantees of such governments and to all commercial enterprises operated by such governments.

(e) Indian Preference in Contracting. All entities awarding contracts or subcontracts for supplies, services, labor and materials in an amount of five thousand dollars (\$5,000) or more where the majority of the work on the contract or subcontract will occur within the exterior boundaries of the Pueblo of Pojoaque, shall give preference in contracting and subcontracting to qualified entities that are certified by the TERO Director as fifty-one percent (51%) or more Indian owned and controlled, with a first preference to qualified entities that are fifty-one percent (51%) or more owned and controlled by local Indians. These requirements shall not apply to the award of contracts awarded directly by the Pueblo of Pojoaque Tribal Council or by the federal or state government or their subdivisions. They shall apply to any contracts awarded by any commercial enterprise of the Pueblo of Pojoaque; even if said contracts must be submitted to the Pueblo of Pojoaque Tribal Council for approval. Tribal programs or divisions other than commercial enterprises shall not be required to comply with these requirements but shall be required, when submitting a contract to the Pueblo of Pojoaque Tribal Council for approval, to indicate, as part of the submission to the TERO Director, the steps taken to award the contract to a local Indian contractor. These requirements shall apply to all subcontracts awarded by a tribal, federal or state direct contractor or grantee, whether or not the prime contract was subject to these requirements. All covered entities shall comply with the rules, regulations, guidelines, and orders of the TERO Director, which set forth the specific obligations of such entities in regard to Indian preference in contracting and subcontracting. The TERO Director shall establish a system for certifying firms as Indian preference and local Indian preference eligible.

(f) Unions. Any covered employer who has a collective bargaining agreement with one or more unions shall obtain written agreement from such union(s) stating that the union shall comply with Indian preference laws, and with the rules, regulations and guidelines of the Pueblo of Pojoaque. Such agreement shall be subject to the approval of the TERO Director.

(g) Powers of the TERO Director. The TERO Director has the full power, jurisdiction, and authority to:

1. Formulate, adopt, amend and rescind rules, regulations and guidelines necessary to carry out the provisions of this Ordinance. Except when an emergency exists, the TERO Director shall provide the public with a reasonable time for comment before promulgating any final regulations.
2. Require each covered employer or entity to submit to the TERO Director an acceptable compliance plan indicating how it will comply with this Ordinance, before a covered employer or entity may commence work within the exterior boundaries of the Pueblo of Pojoaque.
3. Impose numerical hiring goals and timetables that specify the minimum number of Indians a covered employer must hire, by craft or skill level.
4. Require covered employers to establish or participate in such training programs as the TERO Director determines necessary in order to increase the pool of qualified Indians on the Pueblo of Pojoaque as quickly as possible.
5. Establish in conjunction with Tribal employment and training programs, a tribal hiring hall or skills bank and impose a requirement that no covered employer may hire a non-Indian until the tribal hiring hall or bank has certified that no qualified Indian is available to fill the vacancy, with a first preference in referral to local Indians.
6. Prohibit covered employers from using qualification criteria or other personnel requirements that serve as barriers to Indian employment unless the employer can demonstrate that such criteria or requirements are required by business necessity. In developing regulations to implement this requirement, the TERO Director shall adopt the EEOC guidelines on these matters to the extent that they are appropriate. The TERO Director shall have the right to impose its own requirements in addition to or in lieu of EEOC guidelines when necessary to address unique qualification problems confronting Indians.
7. To enter into agreements with unions to ensure union compliance with this Ordinance. Such agreements shall in no way constitute recognition or endorsement of any union.
8. Impose contract and subcontract preference requirements, with first preference requirements to local Indian firms, and establish and operate a system for certifying firms as eligible for Indian preference and local Indian preference.

(h) TERO Director; Staff; Duties. The TERO Director shall have all necessary power to: administer, implement, and enforce this Ordinance, including but not limited to:

1. Adopt, amend and rescind rules, regulations, or guidelines.
2. To subpoena records and witnesses.
3. Conduct investigations.
4. To conduct hearings or to impose sanctions pursuant to Subsection (n).

(i) Intergovernmental Relationships. The TERO Director is authorized to enter into cooperative relationships with federal employment rights agencies, such as EEOC and OFCCP, in order to eliminate discrimination against Indians.

(j) Employment Rights Fee. An employment rights fee, to raise revenue for the operation of the TERO Office, is imposed as follows:

1. Every covered employer with a construction contract in the sum of one hundred thousand dollars (\$100,000) or more shall pay a one-time fee of five percent (5%) of the total amount of the contract. The fee may be paid in installments over the length of the contract, if approved by the TERO Director.
2. Every covered employer, other than construction contractors, with twenty (20) or more employees working, within the exterior boundaries of the Pueblo of Pojoaque, with gross sales of one hundred thousand dollars (\$100,000) or more shall pay a quarterly fee of one half of one percent ($\frac{1}{2}$ of 1%) of his employees' quarterly payroll which shall be paid within thirty days after the end of each quarter. This fee shall not apply to education, health, governmental, or nonprofit employers nor to utilities franchised by the Pueblo of Pojoaque.
3. The TERO Director shall be responsible for collecting said fees pursuant to any rules and regulations adopted. Said fees shall be paid to the Treasurer and shall be credited to the general account of the Pueblo.

(k) Complaints. Any individual, group of individuals or organization that believes any covered employer or entity has violated any requirements imposed by this Ordinance or regulations issued pursuant to it, may file a complaint with the TERO Director. The complaint shall be in writing and shall provide such information as is necessary to enable the TERO Director to carry out an investigation. The TERO Director shall investigate every complaint filed with him. If upon investigation, he has reason to believe a violation has occurred, he shall proceed pursuant to the provisions of Subsection (n). Within twenty (20) days after receipt of the complaint, and on a regular basis thereafter, the TERO Director shall provide the complaining party with a written report on the status of the complaint.

(l) Investigations. On his own initiative or pursuant to a complaint, the TERO Director or any field compliance officer designated by the TERO Director shall make such public or

private investigations within the boundaries of the Pueblo of Pojoaque as he or the TERO Director deems necessary to determine whether any covered employer or other covered entity has violated any provision of this Ordinance or any rule or order hereunder, or to aid in prescribing rules, regulations and guidelines hereunder. The TERO Director or his delegate may enter, during business hours, the place of business or employment of any employer for the purpose of such investigations, and may require the covered employer or entity to submit such reports as he deems necessary to monitor compliance with the requirements of this Ordinance or any rule or order hereunder.

(m) Power to Require Testimony and Production of Records. For the purpose of investigations or hearings which, in the opinion of the TERO Director, are necessary and proper for the enforcement of this Ordinance, the TERO Director, or any field compliance officer designated by the TERO Director may administer oaths or affirmations, subpoena witnesses, take evidence, and require, by citation, the production of books, papers, contracts, agreements or other documents, records or information which the TERO Director deems relevant or material to the inquiry.

(n) Enforcement.

1. When, after conducting an investigation, initiated by a complaint pursuant to Subsection (k) or a self-initiated investigation pursuant to Subsection (l), the TERO Director has reason to believe a violation of this Ordinance or regulations issued pursuant to it has occurred, the TERO Director shall notify the covered employer or entity in writing, specifying the alleged violations. However, he may withhold the name(s) of the complaining party if he has reason to believe that such party shall be subject to retaliation. The TERO Director shall seek to achieve an informal settlement of the alleged violation. If he is unable to do so, he shall issue a formal notice of non-compliance, which shall also advise the covered employer or entity of his right to request a hearing.

2. The formal notice shall set out the nature of the alleged violation and the steps that must be taken to come into compliance. It shall provide the employer or entity with a reasonable time, which in no event shall be less than five (5) days from the date of receipt of such notice, to comply, unless the TERO Director has reason to believe irreparable harm will occur during that period, in which case he may require that compliance occur within fewer than five (5) days. If the party fails or refuses to comply, he may request a hearing before the TERO Director which shall be held no sooner than five (5) days and no later than thirty (30) days after the date for compliance set forth in the TERO Director's notification to the party charged of a violation, unless an expedited hearing is deemed necessary by the TERO Director to avoid irreparable harm. If a party fails or refuses to comply and does not request a hearing, the TERO Director may proceed pursuant to Subsection (n)(5).

3. If the party requests a hearing pursuant to Subsection (n)(2), and the TERO Director has good cause to believe that there is a danger that the party requesting the hearing will remove itself or its property from the jurisdiction of the Pueblo prior to the hearing, he may, in his discretion, require the party to post a bond with the TERO Director in an amount sufficient to cover possible monetary damages that may be

assessed against the party at the hearing. If the party fails or refuses to post said bond, the TERO Director may proceed pursuant to Subsection (n)(5). The TERO Director may also petition the Pueblo of Pojoaque Tribal Court for such interim and injunctive relief as is appropriate to protect the rights of all parties during the pendency of the complaint and hearing proceedings.

4. Any hearing held pursuant to Subsection (n)(2) shall be governed by the rules of practice and procedure which may be adopted by the TERO Director. The TERO Director shall not be bound by technical rules of evidence in the conduct of hearings under this Ordinance, and no informality in any proceeding, as in the manner of taking testimony, shall invalidate any order, decision, rule or regulation made, approved or confirmed by the TERO Director. No stenographic record of the proceedings and testimony shall be required except upon arrangement by, and at the cost of the party charged.

5. If, after the hearing, the TERO Director determines that the violation alleged in Subsection (n)(1) occurred and that the party charged has no adequate defense in law or fact, if no hearing is requested, the TERO Director may:

A. Deny such party right to commence business within the exterior boundaries of the Pueblo of Pojoaque;

B. Suspend such party's operation within the exterior boundaries of the Pueblo of Pojoaque;

C. Terminate such party's operation within the exterior boundaries of the Pueblo of Pojoaque;

D. Deny the right of such party to conduct any further business within the exterior boundaries of the Pueblo of Pojoaque;

E. Impose a civil fine on such party in an amount not to exceed five thousand dollars (\$5,000) for each violation;

F. Order such party to make payment of back pay to any aggrieved Indian;

G. Order such party to dismiss any employees hired in violation of the Pueblo of Pojoaque Employment Right requirements; or

H. Order the party to take such other action as is necessary to ensure compliance with this Ordinance or to remedy any harm caused by violation of this Ordinance, consistent with the requirements of 25 U.S.C. 1301, et seq.

6. The TERO Director's decision shall be in writing, shall be served on the charged party by registered mail or in person no later than thirty (30) days after the close of the hearing provided in Subsection (n)(5). Where the party's failure to comply immediately with the TERO Director's orders may cause irreparable harm, the TERO Director may move the Tribal Court, and the Tribal Court shall grant, such injunctive relief as

necessary to preserve the rights of the beneficiaries of this Ordinance, pending the party's appeal or expiration of the time for appeal.

(o) Jurisdiction. The Pueblo of Pojoaque Tribal Council, the TERO Director and the Pueblo of Pojoaque Tribal Court have exclusive jurisdiction of all matters arising under the TERO Resolution and any related Ordinance, Rules, Regulations, Laws and Policies.

(p) Appeals.

1. An appeal to the Tribal Court may be taken from any final order of the TERO Director by any party adversely affected thereby. Said appeal must be filed no later than twenty (20) days after the party receives a copy of the TERO Director's decision. The Tribal Court shall uphold the decision of the TERO Director unless it is demonstrated that the decision of the TERO Director is arbitrary, capricious or in excess of the authority of the TERO Director. The appeal shall be taken by serving a written notice of appeal with the Tribal Court, with a copy to the TERO Director within twenty (20) days after the date of the entry of the order. The notice of appeal shall:

- A. Set forth the order from which appeal is taken;
- B. Specify the grounds upon which reversal or modification of order is sought; and
- C. Be signed by the appellant.

2. The order of the TERO Director shall abate pending the determination of the Tribal Court. However, the TERO Director may petition an, for good cause shown, the Court may order the party requesting a hearing to post a bond sufficient to cover monetary damages that the TERO Director assessed against the party or to assure the party's compliance with other sanction or remedial actions imposed by the TERO Director's order if that order is upheld by the Court. If the order of the TERO Director is reversed or modified, the Court shall by its mandate specifically direct the TERO Director as to further action in the matter, including making and entering any order or orders in connection therewith, and the limitations, or conditions to be contained therein. If the TERO Director's order is upheld on appeal, or if no appeal is sought within twenty (20) days from the date of the party's receipt of the TERO Director's order, the TERO Director shall petition the Court and the Court shall grant such orders as are necessary and appropriate to enforce the orders of the TERO Director and the sanctions imposed by it.

3. If at any stage in the enforcement process, the TERO Director as reason to believe there is a danger that a party will remove itself or its property from the jurisdiction of the Tribal Court, such that the TERO Director or the Court will not be able to collect monetary damages or TERO fees that are (a) owned by that party pursuant to any outstanding order of the TERO Director or Court, or (b) which may be owed if the charges set out in any outstanding notice of violations are upheld, the TERO Director may petition the Tribal Court pursuant to the rules of procedures of the Court to attach and hold sufficient property of the party to secure compliance or for such other relief as

is necessary and appropriate to protect the rights of the TERO Director and other affected parties.

(q) Confiscation and Sale. If, twenty-one (21) days after a decision by the TERO Director pursuant to Paragraph (o) no appeal has been filed, or thirty (30) days after a decision by the Court on an appeal from a decision by the TERO Director pursuant to Subsection (p)(1) a party has failed to pay monetary damages imposed on it or otherwise complied with an order of the TERO Director or the Court, the TERO Director may petition the Court to order the tribal police to confiscate, and hold for sale, such property of the party as is necessary to ensure payment of said monetary or to otherwise achieve compliance. Said petition shall be accompanied by a list of property belonging to the party which the TERO Director has reason to believe is within the jurisdiction of the Tribal Court, the value of which approximates the amount of monetary damages at issue. If the Court finds the petition valid, it shall order the tribal police to confiscate and hold said property or as much as is available. The tribal police shall deliver in person or by certified mail, a notice to the party informing it of the confiscation and of its right to redeem said property by coming into compliance with the order outstanding against it. If thirty (30) days after confiscation the party has not come into compliance, the Court shall order the police to sell said property and use the proceeds to pay any outstanding monetary damages imposed by the TERO Director and all costs incurred by the Court and police in the confiscation and sale. Any proceeds remaining shall be returned to the party.

Subpart T The Environment, Water and Natural Resources

T-1 Dumping and Trespassing

(a) Definitions.

1. “Garbage” includes all waste food, swill carrion, slops and all waste from the preparation, cooking and consumption of food and from the handling, storage and sale of food products and the carcasses of animals.
2. “Rubbish” includes all waste paper, paper cartons, tree branches, yard trimmings, discarded furniture, tin cans, dirt, ashes, bottles and all other unwholesome material of every kind not included as garbage.
3. “Refuse” includes garbage and rubbish.
4. “Dump and dumping” includes leaving refuse in any area outside of a waste disposal container or authorized area.
5. “Trespass” consists of unlawfully entering or remaining on posted land or fenced land within the exterior boundaries of the Pueblo of Pojoaque (“Pueblo”) without possessing written or oral permission from the Pueblo.
6. “Posted land” includes Pueblo lands, roads, buildings, access route, or enclosures that are posted with notices that are printed legibly in English and state a specific prohibition (such as “no trespassing,” “no dumping,” “no hunting,” “no fishing,” or “no digging”).
7. “Fenced land” includes Pueblo lands, roads, buildings, access route, or enclosures that are fenced with wire, strung or unstrung, or have opened or unopened gates.
8. “Prohibited vehicles” include dirt bikes, motorcycles, and all-terrain vehicles.

(b) Procedures.

1. Any violation of this Ordinance will be subject to a civil complaint to be issued by the Pueblo of Pojoaque Tribal Police or their commissioned designee.
2. Any violation of this Ordinance will be subject to the exclusive jurisdiction of the Pueblo of Pojoaque Tribal Court.

(c) Penalties.

1. Each day that a dumping or trespassing harm occurs is construed a separate violation.

2. Any person who enters upon posted or fenced land within the exterior boundaries of the Pueblo is subject to a trespassing fine of not less than ten dollars (\$10) nor more than one hundred dollars (\$100).

3. Any person who enters upon posted or fenced land within the exterior boundaries of the Pueblo and injures, damages or destroys any part of the realty or its improvements, including buildings, structures, trees, shrubs or other natural features is subject to a trespassing fine not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000). Such offender is also liable for restoration of any injury, damage or destruction within the posted area.

4. Any person who enters upon posted or fenced land within the exterior boundaries of the Pueblo in a motor vehicle is subject to a fine of one hundred dollars (\$100) to one thousand dollars (\$1,000). The offender may also be charged towing and ten dollars (\$10) daily storage costs.

5. Any person who enters upon posted or fenced land within the exterior boundaries of the Pueblo in a prohibited motor vehicle is subject to mandatory confiscation of the prohibited motor vehicle and transfer of title of the vehicle to the Pueblo of Pojoaque. The offender may also be charged towing and ten dollars (\$10) daily storage costs.

6. Any person who enters upon posted or fenced land within the exterior boundaries of the Pueblo and illegally dumps refuse is subject to a dumping fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000). Such offender is also liable for collecting and hauling away the illegal refuse.

T-2 Hazardous and Unsightly Conditions in Butterfly Springs Mobile Home Park

(a) All trash and inoperable vehicles shall be removed by the Mobile Home Park renters no later than July 3, 1998.

(b) All pets shall be kept on a leash immediately.

(c) Any renter who does not remove their trash and inoperable vehicles removed by July 3, 1998 shall have such trash and inoperable vehicles removed by the Realty Department. The Realty Department shall charge no more than one thousand dollars (\$1,000) for such removal and/or storage. After the removal the renter shall be subject to eviction within seven (7) days after a hearing in the Pueblo of Pojoaque Tribal Court.

(d) Any pet not kept on a leash shall be picked up immediately by the Santa Fe Animal Control Unit or the Tribal Police.

T-3 Inoperative Vehicles

(a) All inoperative vehicles that are in public view are to be removed or placed out of sight. Inoperative vehicles that are in public view may be a safety hazard or an unsightly nuisance.

(b) An “inoperative vehicle” is defined as a motor vehicle that is inoperable, whether temporarily or permanently, due to flat tires, missing tires or wheels, or in a state of disrepair, or not drivable.

(c) “Public view” is defined as in public view and without a proper vehicle cover or without shielding by a fence.

(d) Any inoperative vehicle within the Pueblo of Pojoaque may be cited by written notice by the Pueblo of Pojoaque Tribal Police. The written notice shall be attached to the vehicle. The written notice shall order the vehicle to be repaired or removed from the public view within seven (7) days.

(e) If the vehicle is not repaired or removed from the public view, the Tribal Police shall issue a written citation. The written citation shall summons the owner of the vehicle to Tribal Court.

(f) If the owner appears before the Court, and shows good cause of his intention to repair or to sell the vehicle, the owner shall have up to one (1) year from the date of the original written notice attached to the vehicle within which to completely accomplish the sale or repair of the vehicle. If the owner fails to repair or sell the vehicle within the one (1) year period, the Court shall order the vehicle towed from the property to a towing yard.

(g) If the owner does not appear before the Court, vehicle shall be towed from the property to a towing yard. The owner shall be responsible for any towing and storage fees. The owner may also be subject to a fine of up to five hundred dollars (\$500).

T-4 Rules and Regulations Related to Water and Wastewater Systems

(a) The Tribal Works Department is authorized and empowered to promulgate Rules and Regulations, to enforce its Rules and Regulations and to assess fines and charges.

(b) The Tribal Court has exclusive jurisdiction to interpret and enforce the Rules and Regulations and to hear appeals from decisions and actions of the Tribal Works Department.

T-5 Emergency Pollution Abatement

(a) Executive Power to Issue Emergency Restraining Orders.

1. Executive Powers. The Governor, upon receiving evidence that a pollution source or combination of sources is presenting an imminent danger to the health and welfare of residents of the Pueblo or the environment of the Pueblo, may issue an emergency restraining order to restrain any person to stop the discharge or pollutants or otherwise causing or contributing to pollution, in accordance with this Section.

2. Procedures for Issuance of Emergency Restraining Orders.

A. The Governor may issue an emergency restraining order if he or she has reasonable grounds to believe that a polluting activity may pose an immediate,

imminent threat of irreparable injury, loss, or damage to the health, safety and welfare of the residents of the Pueblo or the integrity of the Pueblo environment, or is in violation of a tribal or federal environmental law, regulation, code, or ordinance.

B. Except as otherwise provided in this Ordinance, written notice of the emergency restraining order shall be given to the owner, operator, agent, or other person with apparent or actual authority at the site of the polluting activity (“Adverse Party”).

C. No emergency restraining order shall be issued by the Governor without notice to the Adverse Party, unless it clearly appears that immediate and irreparable injury, loss, or damage will result to the health and safety of the residents of the Pueblo or the integrity of the Pueblo environment before notice can be served. Every emergency restraining order:

- i. Shall be written, endorsed with the date and hour of issuance, and filed forthwith in the clerk’s office of the Pueblo of Pojoaque Tribal Court within five (5) days of its issuance entered on the record;
- ii. Shall define the injury and state why it is irreparable and, if applicable, why the order was entered without notice; and
- iii. Shall expire by its terms within such time after entry, not to exceed ten (10) days, unless within that time the Governor for good cause shown moves the Tribal Court for a preliminary or permanent injunction.

D. The motion for a preliminary or permanent injunction shall be set down for hearing by the Pueblo of Pojoaque Tribal Court at the earliest possible time and shall take precedence over all matters except older matters of the same character. For good cause shown, the Pueblo of Pojoaque Tribal Court also may extend the emergency restraining order for up to an additional five (5) days or until the hearing.

E. When the motion is heard, the Governor shall proceed with the application for a preliminary or permanent injunction. Should the Governor fail to do so, the Tribal Court shall dissolve the emergency restraining order.

F. On two (2) days notice to the Governor, or on such shorter notice as the Pueblo of Pojoaque Tribal Court may prescribe, the Adverse Party may appear and move for the dissolution or modification of the emergency restraining order and, in that event, the Tribal Court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

(b) Judicial Power to Issue Preliminary and Permanent Injunctions.

1. Judicial Power. The Tribal Court may issue a preliminary or permanent injunction to restrain any person to stop the discharge of pollutants causing or contributing to pollution that represents a substantial danger to the health and welfare of residents of the Pueblo or the environment of the Pueblo.

2. Procedures for Issuance of Preliminary or Permanent Injunctions.

A. No preliminary or permanent injunction shall be issued without notice to the Adverse Party and a hearing.

B. Every order granting an injunction and every restraining order shall be specific in terms, shall describe in reasonable language, and not by reference to the complaint or other document, the act or acts sought to be restrained; and is binding only upon the parties to the action, their officers, agents, servants, employees, attorneys and advocates, and upon those persons in active consent or participation with them who receive actual notice of the order by personal service or otherwise.

C. A preliminary or permanent injunction may be granted on the following grounds:

i. When it appears by the pleadings or affidavits on file that a party is entitled to the relief demanded, and such relief, or any part thereof, consists in restraining the commission or continuance of some act complained of either for a limited period or perpetually, or that the commission or continuance of some act would produce great or irreparable injury to the party seeking injunctive relief;

ii. When it appears that either party is doing or threatens, or is about to do, or is procuring or suffering to be done, some act in violation of the rights of another party respecting the subject matter of the action; or

iii. In all cases where an injunction would be proper in equity.

Subpart U General Welfare

U-1 Drug and Alcohol Testing Policy for Persons Requesting or Receiving Assistance

(a) The Governor may order a drug or alcohol test of any applicant or recipient of financial assistance or social services.

(b) If the first drug/alcohol test is positive, the applicant/ recipient may request a second test, at their own expense, to ensure the validity and reliability of the first test. The second drug/alcohol test must be requested and taken within an hour of receiving the result of the first drug/alcohol test.

(c) If the applicant/recipient tests positive for drug/alcohol use, they shall be subject to First Offense Penalties.

(d) First Offense Penalties are mandatory. First Offense Penalties include: At a minimum, the applicant/recipient shall be given one week leave without pay. After the one week, the applicant/recipient may again receive benefits, but for the three months from the time of the negative result, they are subject to random drug testing at the discretion of any Tribal Official. The applicant/recipient employee shall be responsible for the costs of all drug testing within the probationary period.

(e) Second Offense Penalties are mandatory. After a second offense, the applicant/recipient employment shall be terminated from receiving any benefits for one year. The applicant/recipient must submit to a test for illegal drugs or alcohol and test negative prior to regaining eligibility for financial assistance or social service programs.

(f) DUI convictions: At the discretion of a Tribal Official, any applicant/recipient convicted in any Court of the violation of Driving under the Influence may be subject to the First and Second Offense Penalties.

(g) Any applicant/recipient who is subject to the first or second offense penalties remains eligible for social service programs regarding rehabilitation and counseling for the substance abuse problem.

(h) Any person who is receiving financial assistance for educational purposes and who tests positive for drugs or alcohol shall:

1. Repay the Pueblo one-half of the last stipend payment that the recipient received (e.g., if the recipient receives a monthly stipend of \$1,000, the recipient shall repay \$500 to the Pueblo).
2. Take another drug/alcohol test prior to receiving any further education financial assistance. If the test is negative, they shall be eligible to receive educational financial assistance. However, if the test is positive, the recipient shall repay the Pueblo the total amount of educational financial assistance that the recipient received for the current semester in which the recipient tests positive and they shall be

ineligible to receive any educational financial assistance for one year from the date of the negative test result.

U-2 Liquor Control Act

(a) Definitions.

1. “Alcoholic beverages” means distilled or rectified spirits, potable alcohol, brandy, whiskey, rum, gin and aromatic bitters of any similar alcoholic beverage, including blended or fermented beverages, dilutions or mixtures of one or more of the foregoing containing more than one-half of one percent alcohol, but excluding medicinal bitters:
 - A. “Spirituous liquors” means alcoholic beverages except fermented beverages such as wine, beer and ale;
 - B. “Beer” means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt and hops or other cereals in water and includes porter, beer, ale and stout;
 - C. “Fortified wine” means wine containing more than fourteen percent alcohol by volume when bottled or packaged by the manufacturer, but does not include:
 - i. Wine that is sealed or capped by cork closure aged two years or more;
 - ii. Wine that contains more than fourteen percent alcohol by volume solely as a result of the natural fermentation process and has not been produced with the addition of wine spirits, brandy or alcohol; or
 - iii. Vermouth and sherry.
 - D. “Wine” includes the words “fruit juices” and means alcoholic beverages obtained by the fermentation of the natural sugar contained in fruit or other agricultural products with or without the addition of sugar or other products that do not contain less than one half of one percent nor more than twenty-one percent alcohol by volume.
2. “Club” means any nonprofit group, including an auxiliary or subsidiary group, organized and operated under the laws of the Pueblo of Pojoaque with a membership of not less than twenty members who pay membership dues at the rate of not less than five dollars (\$5.00) per year and who, under the constitution and bylaws of the club, have all voting rights and full membership privileges and which group is the owner, lessee or occupant of premises used exclusively for club purposes and which group the Commission finds is operated solely for recreation, social, patriotic, political, benevolent or athletic purposes.
3. “Commission” means the Pueblo of Pojoaque Alcoholic Beverage Commission.

4. “Dispenser” means any person licensed under the provisions of the Liquor Control Act selling, offering for sale or having in his possession with the intent to sell alcoholic beverages both by the drink for consumption on the licensed premises and in unbroken packages for consumption and not for resale off the licensed premises.
5. “Micro brewer” means any person who produces less than five thousand (5,000) barrels of beer in a year.
6. “Minor” means any person under twenty-one (21) years of age.
7. “Person” means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, Pueblo-chartered corporation, or any other legal entity.
8. “Restaurant” means any establishment having a New Mexico resident as a proprietor or manager which is held out to the public as a place where meals are prepared and served primarily for on-premises consumption to the general public in consideration of payment and which has a dining room, a kitchen, and the employees necessary for preparing, cooking and serving meals; provided that “restaurant” does not include establishments serving only hamburgers, sandwiches, salads and other fast foods.
9. “Wholesaler” means any person holding a license issued under the Liquor Control Act who sells, offers for sale or possesses for the purposes of sale any alcoholic beverages for resale by the purchaser.

(b) Pueblo of Pojoaque Alcoholic Beverage Commission.

1. The Commission is composed of up to five voting members. All members shall be named by the Tribal Council to serve for terms to be decided by the Tribal Council. The Commission shall determine its officers and chairperson.
2. Commission members shall meet at the call of the chairperson. Members of the Commission shall be reimbursed for per diem and mileage and shall receive a monthly stipend in accordance with Pueblo of Pojoaque Tribal guidelines.
3. The Commission will be responsible for issuing licenses and determining the outcome of all matters relating to the use and sales of alcoholic beverages within land owned by the Pueblo of Pojoaque within the exterior boundaries of the Pueblo of Pojoaque. These decisions will be made in accordance with applicable federal and New Mexico laws.
4. It shall be the policy of the Commission that the sale, service and public consumption of alcoholic beverages within the exterior boundaries of the Pueblo of Pojoaque shall be licensed, regulated and controlled so as to protect the public health, safety and morals. Therefore, the Commission shall investigate the qualifications of the applicants for licenses and shall investigate the premises for which any license is sought before the license is issued.

5. Any person to whom a license is issued shall be fully liable and accountable for the use of the license, including but not limited to liability for all violations of the Liquor Control Act.

6. All managers are responsible for acts relating to alcohol service within the scope of their employment or while performing alcohol-related duties in the conduct of business.

7. All fees collected by the Commission shall be placed in the General Operating Fund of the Pueblo of Pojoaque under the designation "Pueblo of Pojoaque Alcoholic Beverage Commission" or under such designation as the Pueblo of Pojoaque Financial Officer shall recommend.

8. The final decisions of the Commission may be appealed only to the Tribal Council.

9. The Commission is authorized to license any person within the boundaries of lands over which the Pueblo of Pojoaque has jurisdiction if the alcoholic beverages are purchased from New Mexico wholesalers.

(c) Regulations Concerning Alcoholic Beverages.

1. Compliance with Liquor Control Act.

A. The sale or the possession for the purpose of sale or offering for sale, manufacture or transportation of alcoholic beverages is hereby prohibited within the exterior boundaries of the Pueblo of Pojoaque except on the terms and conditions specified in the Liquor Control Act.

B. It is unlawful for any person to deliver any alcoholic beverages for resale within the exterior boundaries of the Pueblo of Pojoaque unless such person has complied with the laws of the Pueblo of Pojoaque and applicable laws of the State of New Mexico.

2. Alcoholic Beverages in Unlicensed Public Places. It is unlawful for any person to drink or consume alcoholic beverages or for any person who is the owner, proprietor, operator or agent of the owner, proprietor or operator to sell, serve, furnish or permit the drinking or consumption of alcoholic beverages in any public place or any public club, whether operated for profit or not, except in those establishments having a license to dispense alcoholic beverages.

(d) Regulations Concerning Minors.

1. Employment of Minors. It is unlawful for any licensee knowingly to employ any person under twenty-one (21) years of age in the sale and service of alcoholic beverages.

2. Selling or Giving Alcoholic Beverages to Minors.

A. It is unlawful for any club, retailer, dispenser or any other person to do any of the following:

- i. Sell, serve or give any alcoholic beverages to a minor, or to permit a minor to consume alcoholic beverages on the licensed premises;
- ii. Buy alcoholic beverages for or procure the sale or service of alcoholic beverages to a minor;
- iii. Deliver alcoholic beverages to a minor; or
- iv. Aid or assist a minor to buy, procure or be served with alcoholic beverages.

B. It is unlawful for any minor to consume, buy, attempt to buy, receive, possess or permit himself to be served with any alcoholic beverage in a licensed premise.

C. If any person not a minor deceives another person to believe that a minor is legally entitled to be sold, served or delivered alcoholic beverages, he and not the person deceived shall have committed an unlawful act.

D. It is unlawful for any person to give, loan, sell or deliver an identity card to a minor with the knowledge that the minor intends to use the identity for the purpose of procuring or attempting to procure any alcoholic beverages.

E. It is unlawful for minor employees to ring up and/or accept payment in liquor in licensed premises. All alcohol servers must wear a color-coded tag verifying LCC certification on their badge during business hours. Updated lists of certified alcohol servers shall be submitted to the Commission annually, with license renewal applications. Upon completion of alcohol server's training, certifications shall be forwarded to the Commission.

(e) Licenses and License Tax.

1. Licenses; Required Sales and Shipment. It is unlawful for any person, on his own behalf or as agent for another person, except a duly licensed wholesaler, directly or indirectly to sell or offer for sale or ship or transport into the exterior boundaries of the Pueblo of Pojoaque for resale any alcoholic beverages, except to a duly licensed retailer, dispenser, club, micro brewer, restaurant, canopy operator or special dispenser.

2. Application for Pueblo of Pojoaque License. Applications for a Pueblo of Pojoaque license under this Section shall be made to the Commission and shall contain such information as the Commission shall prescribe.

3. License Tax.

A. Annual license taxes on the privileges of persons holding liquor licenses issued by the Commission are imposed as follows:

- i. Dispenser: an annual fee of one thousand two hundred and fifty dollars (\$1,250);
- ii. Retailer: an annual fee of one thousand two hundred and fifty dollars (\$1,250);
- iii. Club: an annual fee of one thousand two hundred and fifty dollars (\$1,250);
- iv. Micro brewer: an annual fee of one thousand two hundred and fifty dollars (\$1,250);
- v. Restaurant: an annual fee of one thousand dollars (\$1,000); and
- vi. Canopy: an annual fee of one thousand two hundred and fifty dollars (\$1,250).

B. The licenses specified in Paragraph (A) of this Section shall be reissued annually on or about July 1 upon the payment of the annual license fee. Renewal applications and fees shall be submitted no later than May 1 for the proper review and evaluation. Application fees and/or licensing fees shall not be prorated. Any late renewal applications shall be subject to a late fee assessment of not more than ten percent (10%) of the liquor application fee.

4. Special Dispensers' Permits. Any person granted a special dispenser's permit for use within the exterior boundaries of the Pueblo of Pojoaque shall pay in advance a fee of fifty dollars (\$50.00) per day for each day or fraction thereof that the permittee is to dispense alcoholic beverages. Any other fees will be determined by the Commission at the time of licensing. The Commission shall consider the proposed use, location and extent of the permit before determining the fees. Special dispenser's permits may only be issued in connection with a public celebration upon written approval from the Commission.

(f) Penalty. As provided in the Liquor Control Act, the failure to pay the license or permit fees imposed by this Act, in addition to any penalty imposed by the Pueblo of Pojoaque Tribal Court, shall be grounds for closing forthwith the place of business of any defaulting licensee.

Subpart V Taxation

V-1 Definitions

As used in this Ordinance, the following definitions will apply:

- (a) “Assessment date” means each January 1st.
- (b) “Business” means an activity engaged in for the purpose of direct or indirect benefit, gain, or advantage.
- (c) “Buying” or “selling” means any transfer of property for consideration or any performance of service for consideration.
- (d) “Commission” means the Pueblo of Pojoaque Tax Commission.
- (e) “Council” means the Pueblo of Pojoaque Tribal Council.
- (f) “Director” means the Tax Director of the Pueblo of Pojoaque.
- (g) “Gross receipts” means the total amount of money or value of other consideration received from selling property within the exterior boundaries of the Pueblo of Pojoaque; from leasing property employed within the exterior boundaries of the Pueblo of Pojoaque, including but not limited to leasing of spaces for placement of mobile homes; from performing services within the exterior boundaries of the Pueblo of Pojoaque; and includes any receipts from sales of tangible property handled on consignment. Gross receipts excludes cash discounts allowed and taken, and excludes any gross receipts or sales tax imposed by the State of New Mexico or its political subdivisions, provided that such entity provides for a reciprocal exclusion for gross receipts taxes imposed by the Pueblo of Pojoaque.
- (h) “Indian” means an individual who is a member, either enrolled or eligible for enrollment, of any Indian tribe recognized by the United States, or an organization composed exclusively of such individuals and organized under the laws of the Pueblo of Pojoaque.
- (i) “Manufacture” means combine or process components or materials to increase their value for sale in the ordinary course of business, but does not include construction.
- (j) “Owner” means any person who owns or enjoys a possessory interest, whether of the whole interest or less than whole.
- (k) “Person” means any natural individual, company, partnership, firm, joint venture, association, club, corporation, estate, trust, or other entity of any kind.
- (l) “Possessory interest” means the property rights within Tribal boundaries, whether obtained by a lease, right-of-way, easement, permit, other agreement, or occupancy (whether authorized or not).

(m) “Taxpayer” means a person who pays a tax, who is subject to and liable for a tax, or who has property that has been assessed for taxation purposes.

(n) “Utility” means any business or service that is engaged in regularly supplying some commodity or service of public consequence. Without limiting the generality of the foregoing, “utility” shall specifically include any business or service involving facilities relating to railroads, gas lines, telephone lines, cable television or other telecommunication lines, telegraph lines, electrical transmission lines, and water lines.

(o) “Cooperative Agreement” means any agreement entered into by the Commission on behalf of the Pueblo and the New Mexico Department of Taxation and Revenue pursuant to New Mexico law and this Tax Ordinance, providing for the administration of gross receipts taxes imposed by the State and the Pueblo on taxpayers situated within the exterior boundaries of the Pueblo, the equalization of gross receipts tax rates as to such taxpayers, and the sharing of gross receipts tax revenues derived from such taxpayers, and for other purposes.

(p) The term “the State” means the State of New Mexico.

V-2 Tax Commission Organization

(a) Creation of Commission. There is hereby created the Pueblo of Pojoaque Tax Commission, which shall be a governmental agency of the Pueblo of Pojoaque, possessing all of the powers, duties, rights, and functions hereinafter defined and as are now and may be hereinafter conferred by the tax laws of the Pueblo of Pojoaque.

(b) Manner of Appointment; Terms.

1. The Governor of the Pueblo of Pojoaque, with the advice and consent of the Tribal Council of the Pueblo of Pojoaque, shall appoint three (3) persons to serve as members of the Pueblo of Pojoaque Tax Commission, at least two of which shall be members of the Pueblo of Pojoaque.

2. The Governor shall designate staggered terms for the initial Commissioners as follows: One Commissioner shall serve for a term of one year; one Commissioner shall serve for a term of two years; and one Commissioner shall serve for a term of three years. Thereafter, all Commissioners shall serve for terms of three years or until their successors are duly appointed and qualified.

3. The Commission shall annually select a Chairman and a Secretary-Treasurer of the Commission from among its members.

4. Nothing herein shall prevent the Governor or any member of the Tribal Council from serving as a member of the Commission.

(c) Powers of the Commission; Duties; Limitations. The Commission shall have the power and authority in the enforcement of the tax laws of the Pueblo of Pojoaque to:

1. Employ a Tax Director of the Commission.
2. Promulgate such regulations as may be necessary and convenient for the administration of the tax laws of the Pueblo of Pojoaque.
3. Administer oaths, conduct hearings, and, by subpoena, compel the attendance of witnesses and the production of any books, records, and papers of any taxpayer for the purpose of enforcing the tax laws of the Pueblo of Pojoaque.
4. Examine under oath, either orally or in writing, any taxpayer or agents, or any other witness, for the purpose of enforcing the tax laws of the Pueblo of Pojoaque.
5. Hear and resolve appeals by taxpayers from actions of the Tax Director.
6. Recommend to the Council proposed amendments to the tax laws of the Pueblo of Pojoaque.
7. Approve and execute on behalf of the Pueblo any Cooperative Agreement authorized by New Mexico law and this Tax Ordinance.
8. Adjust the rate of the gross receipts tax imposed by this Ordinance, as to any taxpayer, as necessitated by any Cooperative Agreement that is in effect, so as to maintain parity between the rate imposed by this Tax Ordinance and the applicable gross receipts tax rate imposed by the State and the local New Mexico governmental entity having jurisdiction with respect to any such taxpayer.
9. Adopt by regulation such tax credits or other administrative provisions, not already provided by this Ordinance, as may be required by the terms of any Cooperative Agreement that is in effect or by any New Mexico law authorizing such agreements.

V-3 Pueblo of Pojoaque Tax Director

(a) Office of Tax Director Created. There is hereby created the office of the Pueblo of Pojoaque Tax Director (“Director”), possessing all powers, duties, rights, and functions hereinafter defined and as are now or may be hereinafter conferred by the tax laws of the Pueblo of Pojoaque.

(b) Manner of Appointment. The Director will be appointed by the Tax Commission and will serve under the direction of the Commission.

(c) Powers of the Director. The Director is charged with the administration and enforcement of the tax laws of the Pueblo of Pojoaque and, incidental thereto, shall have the power and authority to:

1. Assess, collect, and issue receipts for such taxes as are imposed by Ordinance and bring actions on behalf of the Pueblo in any appropriate court for the collection of tribal taxes, penalties, and interest, and for the enforcement of the tax laws of the Pueblo of Pojoaque.
2. Upon reasonable notice, examine and investigate the places of business, equipment, facilities, tangible personal property, books, records, papers, vouchers, accounts, documents, and financial statements of any taxpayer, or, failing reasonable notice, in accordance with a search warrant issued by a court.
3. Compromise and settle claims arising from the application of the tax laws of the Pueblo of Pojoaque, in cases of legitimate controversy.
4. Prepare and make available to taxpayers, and others, standard forms to carry out the intent of Tribal tax laws and regulations, with the approval of the Commission.
5. Appear in proceedings before the Commission and present witnesses and evidence.
6. Administer oaths, conduct hearings, and, by subpoena, compel the attendance of witnesses and the production of any books, records, and papers of any taxpayer for the purpose of enforcing the tax laws of the Pueblo of Pojoaque.
7. Examine under oath, either orally or in writing, any taxpayer or agents, or any other witness, for the purpose of enforcing the tax laws of the Pueblo of Pojoaque.
8. Prepare such proposed regulations and amendments thereto as may be necessary and convenient for the enforcement of the tax laws of the Pueblo of Pojoaque.
9. Promulgate and enforce written rulings, interpretations, and notices as may be necessary and convenient to enforce the tax laws of the Pueblo of Pojoaque.
10. Exercise all other authority delegated by law, or as may be reasonably necessary in the administration or enforcement of the tax laws of the Pueblo of Pojoaque.
11. Provide to taxpayers, upon request, copies of rules, rulings, and regulations affecting the tax liability of such taxpayers.
12. Hire and fire personnel, incurring the expenses necessary to do so.
13. Consult with the Council on the preparation of a budget for the expenditure of tax revenues.
14. Negotiate with the New Mexico Department of Taxation and Revenue and present to the Commission for approval any form of Cooperative Agreement authorized by New Mexico law and this Tax Ordinance.

V-4 Bookkeeping and Records

(a) Bookkeeping. The Director shall establish and maintain the necessary financial records and books to account for all tax and other monies received using generally accepted accounting standards. Separate books will be maintained for each type of tax imposed.

(b) Taxpayer Records. The Director shall maintain accurate and complete records which reflect all taxes, penalties, and interest levied, due and paid, assessments, notices, and all other official transactions, communications, or actions by the Director, including responses, if any, from taxpayers. Such records shall be subject to audit at any time, upon the direction of the Commission or the Council.

(c) Confidentiality of Taxpayer Record. All records relating to taxpayers shall be confidential and not open to public inspection. A taxpayer will, however, be given access to records relating to his tax liability upon written request.

(d) Offices at Pueblo of Pojoaque. The Office of the Director will be located at the Tribal office building at the Pueblo of Pojoaque, New Mexico. The office will be open during normal working hours, or otherwise as posted, to accept payments, filings, reports, notices, and other communications or materials.

(e) Bonding. The Director must be covered by an adequate fidelity bond and may require that additional employees be covered by a similar bond.

V-5 Promulgation of Regulations

(a) Notice. The Commission may, but is not required to, publish proposed regulations in order to provide interested parties an opportunity to comment. Notice of the proposal will be published and the text made available as described hereinafter. The notice will invite written comments and give a deadline for submission not less than thirty (30) days after the first publication of notice. The Commission may, but is not obligated to, hold a public hearing, at which it will announce the time and place the oral testimony will be heard.

(b) Publication. Publication of a notice requires publication in the legal section of the local newspaper at least once a week for three (3) consecutive weeks and further requires a posting of the notice in the Pueblo of Pojoaque Tribal Office and the Pueblo of Pojoaque Tourist Information Center. The notice shall identify or otherwise describe the terms and conditions of the new regulations.

(c) Effective Date. A regulation will become effective forty-five (45) days after the first publication of notice or on the date otherwise specified therein.

(d) Available for Inspection. A copy of the regulations will be filed and made available for public inspection at the Office of the Director at 2 Petroglyph Circle, Santa Fe, New Mexico 87506.

V-6 Collection Actions

The Director is authorized:

(a) To bring any necessary actions for the collection of any assessed and unpaid taxes, penalties, or interest and all costs and expenses incurred by the Commission in such collection, including but not limited to attorneys' fees and expenses. Such actions shall be civil in nature, and all penalties and interest shall be in the form of civil damages for non-payment. All other civil remedies provided for in Tribal law shall also be available to the Director.

(b) To bring any necessary actions, including forfeiture and cancellation of easements, rights-of-way, leases, and other rights against a taxpayer occupying Tribal lands, in order to enforce collection of taxes, penalties, and interest.

(c) To foreclose any lien imposed on any property for non-payment of taxes.

(d) To impose upon a non-complying taxpayer the Tax Commission's costs and expenses in enforcing the Ordinance against such taxpayer, including but not limited to attorneys' fees and expenses.

V-7 Formal Conference with Director

(a) Formal Conference. Any taxpayer may request a Formal Conference with the Director for a matter relating to assessment or valuation. The request must be in writing and must state with particularity the basis of the taxpayer's claim that the action of the Director is erroneous. Such written request must be filed with the Director not later than thirty (30) days from the assessment date (Utilities Tax) or from the date of receipt by taxpayer of an assessment. The Director must provide the taxpayer a Formal Conference within thirty (30) days of the date of the taxpayer's request. The taxpayer will be given not less than five (5) days notice of the time and place of the Formal Conference, and will be afforded the opportunity to present testimony and other evidence and to cross-examine witnesses. Formal rules of evidence will not apply; and the Director may accept such evidence as he finds relevant and credible. The Director will render a final decision, together with directions consistent therewith, not later than twenty (20) days following the conclusion of the Formal Conference.

(b) Record of Proceedings. The taxpayer will furnish a certified court reporter to make a written record of the Formal Conference, and, if transcribed, a copy of the transcript will be furnished to the Director, all at the expense of the taxpayer.

(c) Payment Under Protest. A taxpayer objecting to an assessment may avoid the imposition of interest and penalty only by paying the tax due under protest within the prescribed time.

(d) No Involvement in Administration. Because the Commission will hear appeals by taxpayers from actions of the Tax Director, the Commission may not participate in Formal Conferences or other decisions of the Tax Director unless and until an appeal to the Commission is made.

V-8 Appeal to Commission

(a) Notice of Appeal. In the event a taxpayer is dissatisfied with the Director's decision resulting from the Formal Conference, the taxpayer may file with the Director a written Notice of Appeal to the Commission within ten (10) days following the Director's decision. The Notice of Appeal must state with particularity the basis of the taxpayer's claim that the decision of the Director is erroneous.

(b) Submission of Materials. The taxpayer may submit materials to the Commission, through the Director, within twenty (20) days from the date of the decision of the Director being appealed. The materials may include a record of the Formal Conference proceedings and a brief addressing the taxpayer's points on appeal. Upon receipt of the taxpayer's appeal materials, the Director shall have twenty (20) days within which to file a responsive brief. The Commission may, but is not required to, permit oral argument.

(c) Decision by Commission. The Commission will render a written decision without delay which decision shall be final. A copy of the decision will be delivered to the Director and the taxpayer.

(d) Standard of Review by Commission. The review by the Commission will be limited to the record of the Formal Conference. No new evidence may be submitted, except evidence alleging fraud in the proceedings below. The Commission will review the record and consider all submissions. If the Commission finds that there was substantial compliance by the Director with procedural requirements and that the action by the Director was supported by evidence and justified by law, it shall affirm the Director's decision. If it finds to the contrary, it may remand the matter to the Director, together with directions consistent with its decision.

V-9 Disposition of Tax Revenues; Refunds

(a) Tax Revenues for Public Purposes. All tax monies collected through enforcement of this Ordinance shall be deposited in an account or accounts separate from the General Fund of the Pueblo, and all such tax revenues shall be expended for public purposes only.

(b) Taxes Paid Under Protest. Taxes paid under protest will be deposited in an interest-bearing account separate from the general tax account(s).

(c) Refunds to Taxpayer. If the Director or Commission finds that a taxpayer is entitled to a refund, the Director shall make the refund payment, together with any interest earned thereon.

(d) Overpayments. If it shall appear subsequent to the receipt of tax proceeds by the Tribe that an amount of tax, penalty, or interest has been paid which was not due under the provisions of this Ordinance, whether as a result of a mistake of fact or of law, then such amount shall be credited against any tax due, or to become due, under this Ordinance from the person who made the overpayment, or such amount shall be refunded to such person, provided that a claim for refund shall be filed within three (3) years of the collection of the overpayment or said claim shall be forever barred.

V-10 Failure of Notice

The failure of the Director to mail, or a taxpayer to receive any notice, assessment, bill, or other communication will not affect the taxpayer's liability for a tax.

V-11 Fines and Interest

(a) Fines. Any person who files or furnishes any false information, who fails to file reports or to pay taxes in a timely manner, or who otherwise violates any of the provisions of this Ordinance, whether intentionally or negligently, shall pay a fine of five hundred dollars (\$500) or five percent (5%) of the tax ultimately determined to be due for the period(s) for which the required report was not filed or the required payment not made, whichever is greater, for each such act in addition to any other fines or penalties prescribed by law.

(b) Interest. All taxes, fees, or other charges not paid when due shall bear interest from the date such taxes, fees, or charges become due until the date paid. Annual rates of interest shall be established in regulations. Interest shall be imposed on any unpaid amount of tax from the date the payment was due, without regard to any extension of time or stay of payment, to the date payment is received. Interest at a lesser rate shall be paid on any overpayment of tax from the date the payment was made to the date the overpayment is refunded.

V-12 Sovereign Immunity

Nothing herein shall be construed to waive, or otherwise deprive the Director or the Commission, or any Commission members, employees, or agents, of the rights and protection afforded by the sovereign immunity of the Pueblo of Pojoaque.

V-13 Confidentiality

No employee or former employee of the Pueblo shall reveal to any individual, other than another employee of the Pueblo, any information contained in the return of any taxpayer made pursuant to this Ordinance or any other information about any taxpayer acquired as a result of his or her employment by the Pueblo except:

(a) To authorized representatives of an Indian nation, Tribe or Pueblo, the territory of which is located wholly or partially within New Mexico, pursuant to the terms of a reciprocal agreement entered into with the Indian nation, Tribe or Pueblo for the exchange of such information for tax purposes only; provided that the Indian nation, Tribe, or Pueblo has enacted a confidentiality law similar to this subsection;

(b) To an authorized representative of the State of New Mexico, provided that the State has entered into a written agreement with the Pueblo to use the information for tax purposes only and that the State has enacted a confidentiality law similar to this subsection;

(c) To a representative of the United States Treasury pursuant to the terms of a reciprocal agreement entered into with the federal government for exchange of such information;

(d) To the Tribal Court, a state court, or a federal court:

1. In response to an order thereof in an action relating to taxes in which the Director is a party and in which the information sought is material to the inquiry; or
2. In any action in which the Director is attempting to enforce this Ordinance or to collect a tax or in any matter in which the taxpayer has put his or her own liability for taxes at issue.

(e) To the taxpayer or to the taxpayer's authorized representative; provided, however, that nothing in this paragraph shall be construed to require any employee to testify in a judicial proceeding except as provided hereinabove;

(f) Information obtained through the administration of any law not subject to administration and enforcement under this Ordinance to the extent that release of such information is not otherwise prohibited by law;

(g) In such manner that the information revealed is not identified as applicable to any individual taxpayer;

(h) To a purchaser of a business, the amount and basis of any unpaid assessment of tax for which the purchaser's seller is liable;

(i) To the Bureau of Indian Affairs for use in audits of rentals, royalties, fees, and other payments due to the Pueblo under land sale, land lease, or other land use contracts, if the Bureau of Indian Affairs agrees in writing that its employees shall be subject to the provisions of this Ordinance regarding confidentiality of information;

(j) The Director shall furnish, upon request by the child support enforcement bureau of any jurisdiction, the last known address with date of all names certified to the Director as being absent parents of children receiving public financial assistance; if the child support enforcement bureau agrees in writing that its personnel will use such information only for the purpose of enforcing the support liability of such absent parents and shall not use the information or disclose it for any other purpose; and

(k) The Director shall answer all inquiries concerning whether a person is or is not a registered taxpayer.

V-14 Utility Tax

(a) Imposition. There is hereby imposed and levied a basic ad valorem tax upon every possessory interest in utilities within the exterior boundaries of the Pueblo of Pojoaque. The tax is imposed and levied as of January 1, 1989. All owners of possessory interests in utilities within the exterior boundaries of the Pueblo of Pojoaque as of the assessment date each calendar year shall be liable for this tax.

(b) Rate. The tax rate shall be established by regulation. Until another rate is established, the tax rate shall be seven percent (7%).

(c) Utility Tax. The tax imposed by this Section shall be referred to as the “Utility Tax.”

(d) Incidence of Tax. The incidence of the tax imposed by this Section shall be upon the owner of the possessory interest being taxed.

(e) Reporting Requirements. Each owner of a possessory interest in utilities shall file a report with the Director on or before May 1 of each year. This report shall contain the following:

1. A description of the location of the possessory interest;
2. A description of any improvements and additions thereon;
3. A list of any related equipment kept within the exterior boundaries of the Pueblo; and
4. An itemized statement of the values of items 1, 2, and 3 above.

(f) Forms. The Director will provide forms for the use of the owner in complying with the reporting requirement.

V-15 Utility Tax – Valuation; Assessment and Payment; Extensions

(a) The value of a possessory interest shall be determined as provided in the Instructions for Reporting and Paying the Pueblo of Pojoaque Utility Tax, or by any method subsequently adopted by the Commission and approved by the Council.

(b) Liability. Owners of possessory interests in utilities shall be liable for the taxes, penalties, and interest assessed.

(c) Annual Assessment. Possessory interests in utilities shall be taxed annually as of the assessment date.

(d) Lien. Taxes assessed shall be a lien against the possessory interest in favor of the Pueblo of Pojoaque. Such lien shall arise as of the assessment date, without notice or demand, and shall be prior and superior to all other liens and encumbrances upon the property.

(e) Lien Filing. Any tax or penalty due from a taxpayer shall be a lien in favor of the Pueblo of Pojoaque upon all property or rights to property, whether real or personal, belonging to the taxpayer, and upon any funds held to the credit of the taxpayer by the Bureau of Indian Affairs. In order to preserve the lien against subsequent mortgage purchasers, or judgment creditors, for value and without notice of the lien, the Director may file with the Pueblo of Pojoaque Tribal Court, with the Superintendent of the Northern Pueblos Agency, and with any other court or governmental entity charged with the duty of maintaining lien records a notice of said lien in such form as he shall elect. The Director shall prepare and keep a register of such liens, including but not limited to the name of each taxpayer, date of notice, and time received, amount, and when satisfied. A duplicate register may be maintained at the Northern Pueblos Agency.

(f) Distress Warrant. After notice of a lien has been filed as provided hereinabove, the Director may apply to the Pueblo of Pojoaque Tribal Court for a distress warrant which may direct the Pueblo of Pojoaque to collect the tax by seizure and sale of personal property of the taxpayer in accordance with the procedures provided for by the laws of the State of New Mexico. The tax so collected shall be remitted to the Director, but the Pueblo of Pojoaque Tribal Police shall be permitted to collect from the taxpayer and retain the compensation allowed under the laws of New Mexico. After such notice is filed, the Director is also authorized to apply to the Bureau of Indian affairs for the payment of the amount due, or such lesser amount as may be held to the credit of such party by the Bureau of Indian Affairs.

(g) Satisfaction. Upon payment of the tax and penalty, the Treasurer shall file with the Pueblo of Pojoaque Tribal Court, the Superintendent of the Northern Pueblos Agency, and any other applicable court or governmental entity, a satisfaction that shall be filed and recorded on the register(s) provided for hereinabove.

(h) Director's Authority. The Director shall have authority to assess unassessed possessory interests as of the date on which they should have been assessed and to redetermine incorrect or erroneous assessments.

(i) Extensions. An owner may request an extension of time within which to file a report or pay taxes. The request must be made to the Director in writing by the due date for the report or payment. The extension of time may be granted at the discretion of the Director.

V-16 Utility Tax – Utility Delivery

No possessory interest that consists of a utility delivery or distribution facility or line which serves the Pueblo of Pojoaque facilities or Tribal Members exclusively shall be subject to the Utility Tax.

V-17 Utility Tax – Designation of Individual

Each owner must designate and provide to the Director the mailing address of a natural person for the purpose of notice and service of process.

V-18 Gross Receipts Tax

(a) Imposition; Rate. For the privilege of engaging in business, a Gross Receipts Tax is hereby imposed on any person engaging in business within the exterior boundaries of the Pueblo of Pojoaque, the rate of which shall be equal to the total rate of Gross Receipts Tax that is imposed on such person under New Mexico law, including any applicable local option portion (or that which would be imposed if such a person were subject to such a tax). The Commission shall have the authority to adjust the tax rate imposed by the State and its political subdivisions as to each taxpayer. The current rate of the Gross Receipts Tax is eight point three percent (8.3%).

(b) Name of Tax. The tax imposed by this Chapter shall be referred to as the “Gross Receipts Tax.”

(c) Incidence of Tax. The incidence of the tax imposed by this Chapter shall be on the seller of goods or services.

(d) Effective Date. The Gross Receipts Tax is effective upon execution of a Cooperative Agreement with the State pursuant to 1978 N.M.S.A. Section 9-11-12.

(e) Payment Due Date. The taxes imposed by this Chapter are to be paid on or before the twenty-fifth day of the month following the end of each calendar month in which the taxable event occurs. All non-exempt entities must file reports timely, without regard to liability for a tax. The computation of gross receipts on an annual basis will not be cumulative; tax liability for each month will be determined and imposed separately.

(f) Exemptions. Exempted from the Gross Receipts Tax are certain receipts and uses as follows:

1. Receipts of the Pueblo of Pojoaque;
2. Receipts of the United States of America and any agency thereof;
3. Receipts of the State of New Mexico and any political subdivision thereof;
4. Receipts from selling gasoline, special fuel, and ethanol blended fuel;
5. Receipts of employees from wages, salaries, commissions, or any other form of remuneration for personal services;
6. Receipts from the isolated or occasional sale or leasing of property or services by a person not regularly engaged in selling or leasing such;
7. Receipts of a minister or of a religious organization, which organization has been granted an exemption from Federal Income Tax; and
8. Receipts that are not subject to taxation by the State pursuant to Section 3.2.4.9 N.M.A.C.

(g) Tax Credits. If on a taxable transaction taking place on Tribal land a Gross Receipts, sales or similar tax has been levied by the State and by the Pueblo, the taxpayer is entitled to a credit against the Pueblo's tax equal to the lesser of twenty-five percent (25%) of the tax imposed by the Pueblo on the receipts from the transaction or twenty-five percent (25%) of the tax revenue produced by the sum of the rate of tax imposed pursuant to the Gross Receipts and Compensating Tax Act and the total of the rates of the local option gross receipts taxes imposed on the receipts from the same transaction.

(h) Forbearance as to Certain Taxpayers. The Pueblo agrees that as long as a Cooperative Agreement, as defined in this Tax Ordinance, remains in effect, it will forbear from applying any tax imposed by this Chapter to non-Indian owned land within the exterior boundaries of the Pueblo.

V-19 Gasoline Tax

(a) Imposition; Rate. For providing needed governmental services at the level necessary to support the increasing population and business operations on the Pueblo of Pojoaque, a Gasoline Tax of seventeen cents (\$0.17) per gallon of gasoline purchased or received for retail sale within the exterior boundaries of the Pueblo of Pojoaque is hereby instituted.

(b) Name of Tax. The Tax imposed by this Chapter shall be entitled “Gasoline Tax.”

(c) Effective Date. The Gasoline Tax was instituted on June 19, 1997 and became effective on October 1, 1997. The tax was amended on June 18, 1999.

V-20 Lodger’s Tax

(a) Imposition; Rate. For providing needed governmental services at the level necessary to support the increasing population and business operations on the Pueblo of Pojoaque, a Lodger’s Tax of six percent (6%) is hereby instituted.

(b) Name of Tax. The Tax imposed by this Chapter shall be entitled “Lodger’s Tax.”

(c) Effective Date. The Lodger’s Tax was instituted on June 19, 1997 and became effective on October 1, 1997.

V-21 Cigarette Tax

(a) Imposition; Rate. For providing needed governmental services at the level necessary to support the increasing population and business operations on the Pueblo of Pojoaque, a Cigarette Tax of ninety cents (\$0.90) per package of cigarettes purchased within the exterior boundaries of the Pueblo of Pojoaque is hereby instituted.

(b) Name of Tax. The Tax imposed by this Chapter shall be entitled “Cigarette Tax.”

(c) Effective Date. The Cigarette Tax was instituted on June 19, 1997 and became effective on October 1, 1997.

V-22 Liquor Excise Tax

Repealed on October 3, 2006.