

## **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.