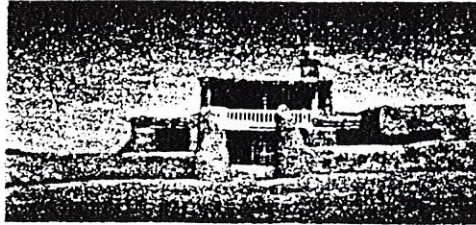


SANTA ANA PUEBLO

Star Route Box 37

BERNALILLO, NEW MEXICO 87004

Office of the:
Governor
Lt. Governor
Secretary



Phone: (505) 867-3301
(505) 867-3302

RESOLUTION

ADOPTING SPECIAL TRESPASS ACTION CODE

93-R- 28

WHEREAS, the Pueblo of Santa Ana is a federally recognized Indian tribe having inherent authority to preserve order and protect the health and safety of persons within its jurisdiction, and

WHEREAS, in order to assure the protection of the Pueblo's citizens and the safety of others who come within the Pueblo's boundaries, it is essential that the Pueblo adopt laws governing the conduct of all persons within its boundaries, including non-members of the Pueblo, and

WHEREAS, although non-Indians cannot be criminally tried or punished under tribal law, their conduct within Pueblo boundaries can be regulated by civil actions in Santa Ana Tribal Court, and

WHEREAS, a tribal law establishing clear authority for such civil actions against non-Indians is needed to avoid uncertainty and to protect the tribe from legal challenges to such actions, and

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WHEREAS, the Pueblo's Special Counsel has prepared, and the tribal officers and officials have reviewed and approved the attached Special Trespass Action Code and have recommended it to the Tribal Council for adoption as part of the Santa Ana Tribal Code, and the Tribal Council has determined that such Special Trespass Action Code should be made part of the law of the Pueblo;

NOW, THEREFORE, BE IT RESOLVED, by the Tribal Council of the Pueblo of Santa Ana, that

1. The attached Special Trespass Action Code, consisting of Chapters 1-2, Sections 101-206, inclusive, and the attached forms, are hereby approved and enacted as positive laws of the Pueblo of Santa Ana, to take effect immediately, and to be incorporated into the Tribal Code of the Pueblo of Santa Ana.
2. The Tribal Council reserves the right to enact such amendments to this Special Trespass Action Code as it may deem necessary or appropriate hereafter.
3. The Governor and officers of the Pueblo are hereby authorized and directed to take appropriate steps to promulgate this Code to members of the Pueblo and to other tribal governments, state and local governments, and appropriate agencies of the federal government.
4. The Governor and officers of the Pueblo and the Pueblo's Special Counsel are hereby authorized and directed to undertake such measures as they deem necessary and appropriate to train tribal law enforcement officers and judicial officers in the implementation of this Code.

CERTIFICATION

I, the undersigned, as Governor of the Pueblo of Santa Ana, hereby certify that the Santa Ana Pueblo Tribal Council, at a duly called meeting convened on the 23rd day of September, 1993, at the Pueblo of Santa Ana in the State of New Mexico, approved the foregoing Resolution, a quorum being present, and that 39 voted for and that none were opposed.


Governor, Santa Ana Pueblo

ATTEST:



Tribal Secretary

9-23-93

Date

JRWH9226

SANTA ANA PUEBLO TRIBAL CODE

TITLE IX: SPECIAL TRESPASS ACTION CODE

Chapter 1: General Provisions

Section 101: FINDINGS

The Tribal Council finds as follows:

A. As a federally recognized Indian tribe having inherent powers of self-government, the Pueblo of Santa Ana retains the power to impose reasonable limitations on the right of non-members to enter its lands, and the power to impose reasonable civil regulatory requirements upon such persons while they are within the Pueblo's exterior boundaries; and

B. The conduct of non-members while they are within the Pueblo's exterior boundaries as a practical matter is largely unregulated, civilly or criminally, by any governmental entity other than the Pueblo, and thus for the Pueblo not to impose reasonable requirements on the conduct of such persons leaves a serious legal vacuum; and

C. The failure of non-members to conduct themselves and their activities while they are within the Pueblo's exterior boundaries in accordance with those standards the Pueblo has established to safeguard the lives, property, health and welfare of its members, constitutes a direct threat to the economic security and the health and welfare of the Pueblo and its members, and the Pueblo is entitled to take reasonable measures to enforce

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compliance with such standards, which it does by enactment of this Title.

Section 102: DEFINITIONS

[RESERVED]

Section 103: DECLARATION OF CONSENT TO ENTRY; CONDITION
CONSTITUTING TRESPASS

A. The Pueblo hereby consents to the presence of non-members of the Pueblo within the exterior boundaries of Pueblo lands for bona fide personal or business purposes, or to pass through the Pueblo on established roadways, so long as such persons conduct themselves in accordance with the requirements of the Santa Ana Tribal Code.

B. Any person who, within the exterior boundaries of Pueblo lands, violates any provision of the Santa Ana Tribal Code, or who enters within the exterior boundaries of Pueblo lands while an outstanding judgment in an action brought against him under the provisions of this Title remains unsatisfied, is hereby declared to have committed a trespass against the Pueblo, and shall be liable to the Pueblo for appropriate damages in a special trespass action brought under the provisions of this title, in addition to any other liability such person may incur.

Section 104: CRIMINAL JURISDICTION RESERVED

Nothing in this title shall be deemed to constitute a waiver or limitation of the Pueblo's power to try and punish criminally

any person for violation of the Pueblo's laws, where such person is subject to the criminal jurisdiction of the Pueblo or consents thereto voluntarily; provided, however, that no special trespass action shall be instituted or maintained against any person for the violation of any requirement of Pueblo law if such person is criminally prosecuted under Pueblo law for the same act or omission.

Section 105: RIGHT OF EXCLUSION RESERVED

Nothing in this title shall be deemed to constitute a waiver or limitation of the Pueblo's right to exclude non-members from its lands, on such grounds and by such procedures as the Tribal Council may deem appropriate.

Chapter 2: Procedure for Special Trespass Action

Section 201: INITIATION OF ACTION; SUMMONS AND COMPLAINT

A. A special trespass action may be initiated by any uniformed law enforcement officer commissioned by the Pueblo, who reasonably believes that a violation of any provision of the Tribal Code has been committed within the exterior boundaries of the Pueblo's lands by any person.

B. The officer shall stop and detain the suspected violator, and may demand that the person produce proper identification, and other routine information, including facts pertinent to the suspected violation.

C. Once he is satisfied that a violation has probably occurred, and that the suspected violator is not a member of the Pueblo, the officer may commence the special trespass action by filling out and personally serving upon the suspected violator a Summons and Complaint, in the form attached hereto as Form A, setting forth the particulars giving rise to the action, and specifying the date and time by which the defendant must answer, which shall be not less than five (5) days from the date of service. A separate Summons and Complaint shall be prepared and served for each separate instance of trespass. The original of the Summons and Complaint shall be given to the defendant, one copy shall be filed with the Tribal Court, and one copy shall be retained by the Tribal Police Department.

Section 202: ANSWER; HEARING

A. The defendant shall make his answer to the complaint, either by appearing in the Tribal Court at the time specified and answering orally, or by filing a written answer with the Tribal Court at or before that time. If the defendant admits the allegations of the complaint, judgment shall be entered against him, in an amount as set forth in Section 204. If he denies the allegations, the matter shall be set for trial, and the officer and the defendant shall be given reasonable written notice of the trial date and time.

B. The trial shall proceed under the rules governing civil cases in the Tribal Court. No counterclaims, cross-claims or

joinder of parties shall be allowed, nor shall there be any right to a trial by jury. The Pueblo must prove the allegations of the complaint by a preponderance of the evidence. At the conclusion of the trial, the court shall enter a judgment either dismissing the complaint, or in favor of the Pueblo with an award of damages in an amount to be determined by the court, plus costs, subject to the provisions of Section 204.

Section 203: DEFAULT

In the event the defendant fails to answer or otherwise appear in response to a complaint and summons by the date specified, the court shall enter a judgment by default against him, assessing damages in the maximum amount allowed by Section 204. A copy of the judgment shall promptly be served on the defendant, personally or by certified mail, together with a statement informing him of the provisions of Section 206 of this Title.

Section 204: DAMAGES; COSTS

The court shall assess damages against the defendant after entering a finding in favor of the Pueblo, in such amount as the court deems just under the circumstances, but subject to the following:

A. In the case of a trespass arising from a violation of any Tribal Code provision concerning the operation of motor vehicles where the defendant's conduct neither resulted in nor posed any serious likelihood of personal injury or property damage;

the court shall not assess damages exceeding One Hundred Dollars (\$100.00).

B. In the case of a trespass arising from a violation of any Tribal Code provision concerning driving a motor vehicle while under the influence of alcohol or illegal drugs, or any other Tribal Code provision not described in paragraph A, above, where no serious personal injury or property damage resulted, the court may assess damages in an amount up to but not in excess of Two Hundred Fifty Dollars (\$250.00).

C. In the case of a trespass arising from a violation of any Tribal Code provision that results in serious property damage or personal injury, the court may assess damages in an amount up to One Thousand Dollars (\$1,000.00); but provided, that if any tribal property, including wildlife, was taken or damaged by the defendant in the course of the trespass, upon proper proof of the value thereof the court may assess an additional amount in damages to compensate the Pueblo for such loss.

D. In addition to any award of damages against a defendant, the Court shall assess court costs, in the amount of Ten Dollars (\$10.00).

Section 205: EXPEDITED JUDGMENT

A. A defendant charged with trespass arising from a violation of a Tribal Code provision concerning the operation of motor vehicles that could be disposed of by a penalty assessment, pursuant to Section 1003 of Title _____ of the Tribal Code, and

who does not contest the allegations of the complaint against him and wishes to avoid the necessity for an appearance in tribal court, may sign the Consent to Entry of Judgment below the Summons, as shown on Form A, at the time of service, and mail it or deliver it to the Tribal Court together with the sum shown below as liquidated damages, and Judgment will be entered in accordance therewith; provided, that such Consent to Entry of Judgment must be received by the Tribal Court within fifteen (15) days after issuance of the complaint. No costs will be assessed in the event a defendant follows this procedure.

B. The damages payable under the procedure set forth in this section shall be as follows:

<u>PROVISION OF TITLE</u>	<u>VIOLATED</u>	<u>DAMAGES</u>
Sections 301-304		\$ 35.00
Section 401 (provided the violation is for speeding at twenty (20) miles per hour or less in excess of the allowed speed limit)		45.00
Sections 402-428		35.00
Sections 702-707		35.00
Sections 801-813		25.00

Section 206: ENFORCEMENT

A. If any judgment entered in a special trespass action remains unsatisfied for thirty (30) days after the defendant has been given due notice thereof, the Pueblo shall take steps to

enforce such judgment in the same manner as other civil judgments are enforced.

B. So long as any such judgment remains unsatisfied against any person, any entry by such person upon Santa Ana lands for whatever purpose shall be deemed a separate trespass, and shall subject such person to a new action under this title.

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FORM A

SANTA ANA PUEBLO TRIBAL COURT

PUEBLO OF SANTA ANA,)
)
 Plaintiff,)
)
 vs.)
)
 Name: _____)
)
 Address: _____)
)
)
)
 DOB: _____ Sex: _____)
)
 OCCUP: _____)
)
 Oper.Lic.No.: _____)

No. _____

COMPLAINT:

SPECIAL TRESPASS ACTION

Defendant.

The above-named defendant is alleged to have committed a trespass against the Pueblo of Santa Ana by violating Tribal Code Section ____ - ____, on the ____ day of _____, 19____, at ____ o'clock ____ .m., at the following location: _____, in that he did the following: _____

This violation ____ did ____ did not result in ____ personal injury ____ property damage, the particulars of which are as follows: _____

I hereby certify under the penalties provided by the Santa Ana Pueblo Tribal Code that I have reasonable grounds to and do believe that the foregoing allegations are true and correct.

DATE: _____

OFFICER

* * SUMMONS * *

The above-named Defendant is hereby commanded to appear in the Santa Ana Pueblo Tribal Court, to answer the above complaint, on the ____ day of _____, 19____, at _____ o'clock ____m., or a default judgment will be entered against said Defendant.

CLERK, SANTA ANA PUEBLO TRIBAL COURT

* * * * *

CONSENT TO ENTRY OF JUDGMENT

I, the above-named defendant, in answer to the foregoing Complaint, hereby state that the allegations thereof are true and correct, that the violation alleged is one that may be disposed of by an expedited proceeding pursuant to Title ____, Section 205 of the Santa Ana Tribal Code, and that I hereby consent to entry of judgment against me in the amount of \$_____, as provided by that section, and I agree to pay said sum, in full, to the Santa Ana Pueblo Tribal Court, on or before the ____ day of _____, 19____.

Defendant

Form A

Santa Ana Pueblo Tribal Court

Pueblo of Santa Ana

Plaintiff

vs.

No. _____

Name: _____

Address: _____

Complaint:

Special Trespass Action

DOB: _____ Sex: _____

Occup: _____

Oper. Lic. No. _____

Defendant

The above-named defendant is alleged to have committed a trespass against the Pueblo of Santa Ana by violating Tribal Code Section _____, on the _____ day of _____, 20____, at _____ o'clock ____m., at the following location: _____, in that he did the following:

This violation _____ did _____ did not result in _____ personal injury _____ property damage, the particulars of which are as follows:

I hereby certify under the penalties provide by the Santa Ana Pueblo Tribal Code that I have reasonable groups to and do believe that the foregoing allegations are true and correct.

Date: _____

Officer

****SUMMONS****

The above-named Defendant is hereby commanded to appear in the Santa Ana Pueblo Court, to answer the above complaint, on the _____ day of _____, 20____, at _____ o'clock _____.m., or a default judgment will be entered against said Defendant.

Clerk, Santa Ana Pueblo Tribal Court

CONSENT TO ENTRY OF JUDGMENT

I, the above-named Defendant, in answer to the foregoing Complaint, hereby state that the allegations thereof are true and correct, that the violation alleged is one that may be disposed of by an expedited proceeding pursuant to Title _____, Section 205 of the judgment against me in the amount of \$ _____, as provided by that section, and I agree to pay said sum, in full, to the Santa Ana Pueblo Tribal Court, on or before the _____ day of _____, 20_____.

Defendant