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## TITLE I - GENERAL PROVISIONS

### ARTICLE 1 - DEFINITIONS

#### Sec. 1-1-1 Definitions

As used throughout this Tribal Code, unless otherwise specified, the following terms shall have the following meanings:

- A. “Governor” means the Governor of the Pueblo.
- B. “Indian Person” means any natural person who is a member of any federally recognized Indian tribe, including the Pueblo, and any other natural person who comes within the definition of “Indian” as that term is defined at 25 U.S.C. § 1301.
- C. “Indian” means any natural person who is an Indian, and, unless otherwise specified in the text or inconsistent with the context, any corporation or other non-governmental legal entity of any kind that is majority-owned by an Indian tribe or one or more Indians and includes any Indian tribe other than the Pueblo.
- D. “Member” means any natural person who is enrolled as a member of the Pueblo or is recognized by the Tribal Council as a member of the Pueblo.
- E. “Pueblo” means the Pueblo of Santa Ana, and unless the context requires otherwise, includes its various governmental agencies, offices, boards and commissions; but the term “Pueblo” does not include the Pueblo’s wholly or majority-owned business enterprises unless this Code specifically provides otherwise.
- F. “Pueblo Entity” means a business enterprise or other independent legal organization, whether chartered under federal, state or tribal law, that is wholly or majority-owned by the Pueblo.
- G. “Pueblo Lands” or “Santa Ana Lands” means all lands within the exterior boundaries of the Santa Ana Pueblo Grant, the lands known as the El Ranchito Grant, and the Santa Ana Indian Reservation, as those tracts exist at the time of enactment of this Code and as enlarged or modified thereafter, whether or not such land is owned by or on behalf of the Pueblo, and any other lands owned by the Pueblo and subject to federal law restrictions against alienation, or owned by the United States of America in trust for the Pueblo.
- H. “Person” means any natural person, and, unless otherwise specified in the text or inconsistent with the context, includes a corporation, partnership of any kind, limited liability company, joint venture, estate, trust, or other non-governmental separate legal entity of any kind.
- I. “Police Officer” means any person vested by the law of the Pueblo or by federal law with the authority and duty to maintain public order or to make arrests for crime, whether that duty extends to all crimes or is limited to specific crimes.

J. “Secretary” means The United States Secretary of the Interior and his or her designees.

K. “Tribal Code” means this compilation of the laws of the Pueblo of Santa Ana, and as the same may be amended, modified, expanded, revised or replaced from time to time.

L. “Tribal Council” means the Tribal Council of the Pueblo.

M. “Tribal Court” means the Contemporary Court of the Pueblo.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

## **ARTICLE 2 - PRINCIPLES OF INTERPRETATION**

### **Sec. 1-2-1 Severability**

If any section or part of this Tribal Code or the application thereof to any party shall be held invalid for any reason whatsoever by a court of competent jurisdiction or by any act of Congress, the remainder of the relevant section or part of this Tribal Code shall not be affected thereby and shall remain in full force and effect.

Enacted by Ordinance Number 01-O-01, adopted December 12, 2001.

### **Sec. 1-2-2 Construction**

Where useful to interpret the meaning of any provision, the Contemporary Court may look to Pueblo common law, or to federal statutory and case law, and may consider statutory and case law of the State of New Mexico and of other states if not contrary to the public policy of the Pueblo.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

## **ARTICLE 3 - APPLICABILITY OF TRADITIONAL AND CUSTOMARY LAW - Reserved -**

## **ARTICLE 4 - JURISDICTION OF THE PUEBLO**

### **Sec. 1-4-1 Jurisdiction Over Indians; Exclusivity**

A. The Pueblo has and exercises governmental authority and jurisdiction over all Indians who are found within Pueblo Lands, over all property of such persons when located on Pueblo Lands, and over all transactions in which any such persons are involved that take place on Pueblo Lands.

B. The jurisdiction recognized by this Section is exclusive as to any assertion of jurisdiction by the State of New Mexico or any of its political subdivisions, and any assertion of civil or criminal authority over any Indian on Pueblo Lands, or over any property owned or controlled by any such person, by the State of New Mexico or any of its political subdivisions, without the express approval of the Tribal Council and in accordance with authority conferred on the State of New Mexico by federal law, shall be considered a wrongful infringement on the sovereignty and jurisdiction of the Pueblo, and shall not be recognized as having any validity in law.

Enacted by Resolution Number 92-R-16, adopted May 5, 1992.

#### Sec. 1-4-2 Jurisdiction Over Non-Indians

A. The Pueblo has and exercises civil judicial and regulatory governmental authority and jurisdiction over every non-Indian on Pueblo Lands who has entered into any consensual relationship with the Pueblo, or with any Member, or with any Pueblo Entity, or otherwise as allowed by federal law. Where the non-Indian person that has entered into the consensual relationship is a corporation, partnership, limited liability company or other legal entity that is not a natural person, moreover, the Pueblo's jurisdiction extends to every person who is an officer, agent, member, partner, or other principal of such entity, and to any employee thereof, who is on Pueblo Lands pursuant to the terms of the consensual relationship, and to any other Person over whom such jurisdiction is agreed to or conferred by the terms of the consensual relationship.

B. For purposes of this section, the term "consensual relationship" means any agreement between a non-Indian and the Pueblo or any Member or any Pueblo Entity, whose terms may reasonably be interpreted to mean or imply that the non-Indian, in person or through its officers, agents, employees or other representatives, is engaging or will engage in some activity on Pueblo Lands that may affect the Pueblo Lands or an interest of the Pueblo, a Member or a Pueblo Entity, or the property of any of them.

C. The Pueblo has and exercises civil judicial and regulatory governmental authority and jurisdiction over every non-Indian whose conduct within Pueblo Lands threatens or has some direct effect on the political integrity, the economic security or the health and welfare of the Pueblo, a Member or a Pueblo Entity, to the fullest extent allowable under federal law.

D. The jurisdiction recognized by this section is exclusive as to any conflicting assertion of jurisdiction by the State of New Mexico or any of its political subdivisions, to the fullest extent allowable under applicable federal law.

E. The Pueblo exercises criminal jurisdiction over certain non-Indians as authorized by the Indian Civil Rights Act (25 U.S.C. § 1301, *et seq.*) as amended by the Violence Against Women Act of 2013 (Pub. L. 113-4, 127 Stat. 54), as authorized by Title V, Article 9 (Criminal Jurisdiction over Certain Non-Indians) of the Tribal Code, and as such Article may be amended or recodified from time to time, and as authorized by other applicable federal and Pueblo law.

Enacted by Resolution Number 92-R-16, adopted May 5, 1992.

## **ARTICLE 5 - SOVEREIGN IMMUNITY OF THE PUEBLO**

### **Sec. 1-5-1 Sovereign Immunity Preserved Unless Waived**

The Pueblo enjoys sovereign immunity from unconsented suit, in any forum in which any such suit might be brought, including all federal, state and tribal courts, and including any arbitration or other compulsory proceeding for the resolution of disputes, regardless whether the matter from which the suit arises arose on or within or without Pueblo Lands, and regardless of the nature of the matter, whether it be a matter of contract, tort, civil rights, or of any other character whatsoever, unless such immunity has been waived as set forth herein, or expressly abrogated by an act of Congress. The Pueblo's immunity shall be construed as immunity from any and all of the burdens of defending any such suit, not merely from liability.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

### **Sec. 1-5-2 Waivers of Sovereign Immunity**

A. No waiver of the Pueblo's sovereign immunity from unconsented suit shall be valid unless set forth in a writing that has been expressly approved by written resolution of the Tribal Council, except that the Tribal Council may by written resolution grant a waiver of the Pueblo's sovereign immunity that applies to a specifically described group or category of matters.

B. Under no circumstances shall any waiver of the Pueblo's immunity from suit be implied, where there is no waiver expressly stated as provided in subsection (A).

C. No Pueblo officer, employee, agent or representative shall have any authority to grant or execute any waiver of the Pueblo's immunity from unconsented suit unless such waiver shall previously have been approved by the Tribal Council as set forth in subsection (A), or unless the Tribal Council shall have expressly conferred on such officer, employee, agent or representative the power to agree to any such waiver, but provided that no such delegation of authority shall be valid unless it is restricted to a particular transaction or a specifically described category of transactions.

D. Any waiver of the Pueblo's immunity from unconsented suit shall be strictly interpreted in favor of the Pueblo, and shall be strictly limited to its terms, including but not limited to those terms specifying the persons or entities in whose favor the waiver is granted, the types of relief allowed by the waiver and any limits on such relief, the nature of the proceedings to which such waiver is limited, the forums in which any action allowed by the waiver may be brought, and any other terms whatsoever; but provided that the Tribal Council shall have the authority to effect a waiver of the Pueblo's immunity from suit as to categories of claims, which waiver shall be effective as to claims that come within each and every term of the waiver.

E. A waiver of the protection of the Pueblo's immunity from suit by a Pueblo Entity may be valid if such entity has been granted the authority to grant such waiver by the Tribal Council, and if the waiver strictly complies with the terms of the grant by the Tribal Council, but any such waiver shall be strictly construed in favor of the Pueblo Entity, and shall be strictly

limited to its terms, and no such waiver shall extend to any action or remedy against the Pueblo itself or to any Pueblo entity other than the entity by which the waiver was granted.

F. Under no circumstances, unless expressly stated to the contrary in a resolution of the Tribal Council, shall any waiver of the Pueblo's sovereign immunity from unconsented suit, or any waiver of the protection of that immunity by any Pueblo Entity, be deemed to extend to any award of punitive, special, statutory or other types of damages, other than compensatory damages for the loss actually suffered by the plaintiff, or injunctive relief to compel compliance with a rule of law or a contract validly entered into and in effect.

G. Under no circumstances shall any waiver of the Pueblo's sovereign immunity from suit be construed as waiving or affecting the exclusive jurisdiction of the Tribal Court over any suit against the Pueblo or any Pueblo Entity, and such exclusive jurisdiction shall remain fully effective and in force as required by federal law.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

### Sec. 1-5-3 Persons and Entities Protected by Pueblo's Immunity

A. The Pueblo's sovereign immunity from unconsented suit shall extend to the Pueblo itself and each of its agencies, boards, commissions and other governmental entities, and shall extend to the Pueblo's Tribal Council and Tribal Council members with respect to any action taken when the Council is in session at a duly called meeting.

B. The Pueblo's sovereign immunity from unconsented suit shall extend to every Pueblo officer, agent and employee, with respect to actions or omissions in the course of their services as officers, agents or employees of the Pueblo; but provided that no such person shall enjoy the protection of any such immunity for any action or omission of such person that is plainly outside the scope of such person's duties or authority as an officer, agent or employee of the Pueblo.

C. A Pueblo Entity shall enjoy the protection of the Pueblo's sovereign immunity from unconsented suit, which protection shall extend to the directors, officers and employees of such entity when acting in the course of their duties as such, unless such immunity is expressly waived in the charter of such entity, and such waiver is acknowledged in the resolution of the Tribal Council approving the creation or acquisition of such entity, or unless such waiver is specifically effectuated by the entity in a manner and in terms allowed by the entity's charter, as set forth in subsection 1-5-2 (E).

D. Pueblo officials and employees, even when sued in their individual capacities, are entitled to the defense of official immunity, to the fullest extent allowed under federal law, when the official or employee was acting in his or her official capacity and in the course and scope of his or her position with respect to the matter giving rise to the claim.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.