

TITLE XI - CIVIL ACTIONS

ARTICLE 1 – TORTS

- Sec. 11-1-1 Purpose
- Sec. 11-1-2 Definitions
- Sec. 11-1-3 Duty of Care
- Sec. 11-1-4 Recovery of Damages upon Breach of Duty
- Sec. 11-1-5 Wrongful Death Action
- Sec. 11-1-6 Intentional Torts
- Sec. 11-1-7 Defenses to Intentional Torts
- Sec. 11-1-8 Limitations
- Sec. 11-1-9 Procedures
- Sec. 11-1-10 Bench Trials: Burden of Proof
- Sec. 11-1-11 Request by Visitor to the Gaming Enterprise
- Sec. 11-1-12 Interpretation of this Code
- Sec. 11-1-13 Sovereign Immunity

ARTICLE 2 - CONTRACT CASES - *Reserved* -

ARTICLE 3 - LIMITATIONS OF ACTIONS - *Reserved* -

ARTICLE 4 - ACTIONS RELATED TO PROPERTY - *Reserved*

ARTICLE 5 - MANDAMUS AND PROHIBITION - *Reserved* -

ARTICLE 6 - COMMITMENT PROCEDURES - *Reserved* –

ARTICLE 7 - ENFORCEMENT OF JUDGMENTS; EXEMPTIONS

- Sec. 11-7-1 Tribal Court Jurisdiction Exclusive
- Sec. 11-7-2 Domestication of Foreign Judgments
- Sec. 11-7-3 Writ of Execution
- Sec. 11-7-4 Discovery in Aid of Execution
- Sec. 11-7-5 Motion to Quash
- Sec. 11-7-6 Sales in Furtherance of Execution
- Sec. 11-7-7 Disposition of Funds in Court Registry
- Sec. 11-7-8 Exemptions
- Sec. 11-7-9 Claim of Exemptions

ARTICLE 8 - EXCLUSION OF NON-MEMBERS FROM TRIBAL LANDS

- *Reserved* -

ARTICLE 9 - SPECIAL TRESPASS ACTION

- Sec. 11-9-1 Findings
- Sec. 11-9-2 Declaration of Consent to Entry; Condition Constituting Trespass
- Sec. 11-9-3 Criminal Jurisdiction Reserved
- Sec. 11-9-4 Right of Exclusion Reserved

| | |
|--------------|---|
| Sec. 11-9-5 | Initiation of Action; Summons and Complaint |
| Sec. 11-9-6 | Answer; Hearing |
| Sec. 11-9-7 | Default |
| Sec. 11-9-8 | Damages; Costs |
| Sec. 11-9-9 | Expedited Judgment |
| Sec. 11-9-10 | Enforcement |

ARTICLE 1 – TORTS

Sec. 11-1-1 Purpose

The purpose of this Code is to provide for a remedy in the Contemporary Court for injury caused by negligent or wrongful acts committed on Pueblo Lands.

Enacted by Res. No. 2021-R-02, adopted March 2, 2021.

Sec. 11-1-2 Definitions

- A. “bodily injury” means physical injury to a natural person.
- B. “Code” means this Tort Code.
- C. “common carrier” means a person or entity that transports goods or passengers on regular routes at set rates.
- D. “comparative negligence” means a measurement of negligence in terms of percentage of fault.
- E. “Contemporary Court” means the Pueblo of Santa Ana Contemporary Court.
- F. “damages” means monetary compensation awarded to a person who suffers an injury.
- G. “defective product” means a product that poses an unreasonable risk of injury to a person resulting from a condition of the product or from a manner of its use.
- H. “Gaming Enterprise” means the entity created by the Pueblo and designated by the Pueblo as having authority to conduct Class I, II, and/or III gaming on Pueblo Lands.
- I. “gross negligence” means an act or omission done without the exercise of even slight care under the circumstances.
- J. “injury” means bodily injury or property damage, or any interference with a person’s legally protected right or interest.

K. “innkeeper” means a person who furnishes a room or other accommodation in exchange for consideration of any kind.

L. “negligence” means failure to exercise ordinary care.

M. “occupant” means a person who lawfully occupies land or who has occupied land with the intent to control it; or a person who is entitled to immediate occupation of the land, so long as no other person is occupying the land.

N. “ordinary care” means the care which a reasonably prudent person would use in the circumstances.

O. “person” means any natural person, and, unless otherwise specified in the text or inconsistent with the context, a corporation, partnership of any kind, limited liability company, joint venture, estate, trust, or other non-governmental legal entity of any kind.

P. “property damage” means physical damage to personal property.

Q. “proximate cause” means that which in a natural and continuous sequence, unbroken by independent intervening cause, produces injury, and without which such injury would not have occurred.

R. “Pueblo” means the Pueblo of Santa Ana.

S. “tort” means a civil wrong or injury resulting from a breach of a legal duty.

T. “trespasser” means a person who enters or remains on land owned or lawfully occupied by another without the owner=s or occupant=s consent or other legal privilege.

U. “visitor” means a natural person who enters or remains upon the premises of another with the express or implied permission of the owner or occupant of the premises.

Enacted by Res. No. 2021-R-02, adopted March 2, 2021.

Sec. 11-1-3 Duty of Care

A. Duty to others and self. Every person has a duty to exercise ordinary care for the safety of others and others’ property. Every person also has a duty to exercise ordinary care for the person=s own safety and the safety of his or her property.

B. Duty to act affirmatively to protect others. A common carrier, innkeeper, and owner or occupant of land open to the public each owes a duty of ordinary care to protect visitors from conditions that create unreasonable risks of harm, arising in the course of that relationship, of

which the common carrier, innkeeper, or possessor knows or by exercise of ordinary care should know.

C. Duty to trespassers. Common carriers, innkeepers, and owners and occupiers of land open to the public owe a duty to trespassers not to cause injury to them willfully, wantonly, or through gross negligence.

D. Duty to person in one's custody. One who is required by law to take or who voluntarily takes the custody of another under circumstances such as to deprive the other of his or her normal opportunities for protection owes a duty of ordinary care to protect such persons from conditions that create unreasonable risks of harm, arising in the course of that custodial relationship, of which the custodian knows or by exercise of ordinary care should know.

E. Duty with regard to actions of third persons. One has no duty to control the conduct of another person so as to prevent him or her from causing injury to a third person unless (a) one has a special relationship with another that imposes a duty to control the other person's conduct, such as a parent/child relationship or an employer/employee relationship; or (b) one has a special relationship with the third person that gives the third person a right to protection, such as between an owner or occupant of land open to the public and a visitor.

F. Voluntary assumption of duty. A person who is under no duty to act, but does so voluntarily, becomes obligated to act with reasonable care.

G. Supplier of a product. The supplier of a product has a duty to use ordinary care to avoid a foreseeable risk of injury caused by a condition of the product, the way it is used, or the manner in which its misuse may be reasonably foreseeable. This duty is owed to persons who can reasonably be expected to use or reasonably foreseeably misuse the product, and persons who can reasonably be expected to be in the vicinity during the use or reasonably foreseeable misuse of the product.

H. Products liability. A supplier who puts a defective product on the market is strictly liable for the injury caused by it.

I. Duty imposed by Pueblo law. A duty of care may also be imposed by Pueblo law or regulation.

Enacted by Res. No. 2021-R-02, adopted March 2, 2021.

Sec. 11-1-4 Recovery of Damages upon Breach of Duty

A. A person who breaches a duty of care owed to another, which breach is the proximate cause of injury to the other, is subject to an action in the Contemporary Court under this Code for damages caused by the breach.

B. It is a plaintiff=s burden to establish by a preponderance of the evidence that the defendant=s breach of duty was the proximate cause of plaintiff=s injury.

C. A defendant=s liability is limited to those physical harms that result from the risks created by the conduct for which the defendant is responsible.

D. The Pueblo hereby adopts a system of pure comparative fault. The fact finder shall find and compare the negligence of all persons who may have contributed to an injury, regardless of whether any such person is a party to the action, and the damages recoverable shall be apportioned among them according to the relative degree of the negligence attributable to each such person, except that no damages may be awarded against a person who is not party to the action.

E. A person who violates a Pueblo law or regulation commits negligence per se, and when another is injured as the direct and natural consequence of that negligence, the person injured may recover his or her damages if he or she is within the class of persons for whose benefit the Pueblo law or regulation was enacted or adopted.

F. A person injured by a defective product may file an action in the Contemporary Court against the supplier under this Code for damages caused by the defective product, to the extent allowed under federal law.

Enacted by Res. No. 2021-R-02, adopted March 2, 2021.

Sec. 11-1-5 Wrongful Death Action

A. Whenever the death of a natural person is caused by the negligence or wrongful act of another, which negligence or wrongful act would, if death had not ensued, have entitled the party injured to maintain an action in the Contemporary Court and recover damages in respect thereof, then, and in every such case, the person or persons who would have been liable, if death had not ensued, shall be liable in an action for damages, notwithstanding the death of the person injured.

B. An action under this Section may be brought in the Contemporary Court by the personal representative of the estate of the deceased. A cause of action accrues under this section on the date of death. The cause of action shall be deemed an asset of the estate, and any proceeds thereof shall pass to the lawful heirs and devisees of the estate.

Enacted by Res. No. 2021-R-02, adopted March 2, 2021.

Sec.11-1-6 Intentional Torts

A. Assault. A person who acts intentionally, causing another person to reasonably believe that he or she is about to be touched in a harmful or offensive manner, is liable to that other person for damages.

B. Battery. A person who acts intentionally, causing harmful or offensive contact with another person, is liable to that person for damages.

C. Conversion. A person who wrongfully exerts substantial dominion or control over another's personal property is liable to that person for damages.

D. Prima Facie Tort. A person who intentionally acts or fails to act, intending that the action or failure to act would cause harm to another person, or knowing that the act or failure to act would cause harm to another person, and where that act or failure to act does cause harm to that other person, is liable to that person for damages.

Enacted by Res. No. 2021-R-02, adopted March 2, 2021.

Sec. 11-1-7 Defenses to Intentional Torts

A. Consent. A plaintiff's valid consent to the defendant's act or omission is a defense to an intentional tort, but only to the extent of the scope of the consent. Consent is not valid if the plaintiff lacked the capacity to consent due to age, mental incapacity, or impairment, or if consent is given as a result of duress or fraud.

B. Self-Defense, Defense of Others, or Defense of Property. Self-defense, defense of others, or defense of property is a defense to a claim for damages based on an intentional tort, provided that the threatening conduct to which the defendant is responding is in progress or imminent, the defendant has a reasonable belief of the threat to which he or she is responding, and defendant uses only the amount of force necessary to protect himself or herself against the threat.

C. Necessity. Necessity is a defense to the tort of conversion. A person may interfere with another's personal property where there is reasonable necessity to avoid threatened harm, provided that the defendant shall be liable for actual harm done to another's personal property.

Enacted by Res. No. 2021-R-02, adopted March 2, 2021.

Sec. 11-1-8 Limitations

Any action under this Code must be brought within three years after the cause of action accrues. Except as specifically provided otherwise, a cause of action under this Code is deemed to accrue on the date when the injury is sustained.

Enacted by Res. No. 2021-R-02, adopted March 2, 2021.

Sec. 11-1-9 Procedures

The Rules of Civil Procedure applicable to cases in the Contemporary Court shall apply to claims brought under this Code.

Enacted by Res. No. 2021-R-02, adopted March 2, 2021.

Sec. 11-1-10 Bench Trials; Burden of Proof

All cases filed under this Code shall be tried in the Contemporary Court, without a jury. The plaintiff shall have the burden to prove his or her case by a preponderance of the evidence.

Enacted by Res. No. 2021-R-02, adopted March 2, 2021.

Sec. 11-1-11 Request by Visitor to the Gaming Enterprise

Upon request of a visitor or the visitor=s designated representative to the Gaming Enterprise, the Gaming Enterprise shall provide a copy of this Code, the Gaming Enterprise=s name, address, and telephone number, and the Contemporary Court=s mailing address and telephone number.

Enacted by Res. No. 2021-R-02, adopted March 2, 2021.

Sec. 11-1-12 Interpretation of this Code

The Contemporary Court may look to case law from tribes or states that have adopted a comparative fault system when interpreting the provisions of this Code, but the Contemporary Court is not bound by such case law and nothing in this Code shall be construed as suggesting or implying that such case law applies to actions brought under this Code in the Contemporary Court.

Enacted by Res. No. 2021-R-02, adopted March 2, 2021.

Sec. 11-1-13 Sovereign Immunity

Nothing herein is intended to waive, nor shall anything in this Code be deemed to waive, the sovereign immunity of the Pueblo, or the sovereign immunity protection accorded its agencies, its officials, or its employees, or of any of the Pueblo=s business entities, including the Gaming Enterprise, their officers, or employees. A claim under this Code against any of the foregoing may be brought in the Contemporary Court only if there is a valid waiver of sovereign immunity or sovereign immunity protection for that claim, and then only in strict accordance with any such waiver.

Enacted by Res. No. 2021-R-02, adopted March 2, 2021.

ARTICLE 2 - CONTRACT CASES - *Reserved* -

ARTICLE 3 - LIMITATIONS OF ACTIONS - *Reserved* -

ARTICLE 4 - ACTIONS RELATED TO PROPERTY - *Reserved*

ARTICLE 5 - MANDAMUS AND PROHIBITION - *Reserved* -

ARTICLE 6 - COMMITMENT PROCEDURES - *Reserved* -

ARTICLE 7 - ENFORCEMENT OF JUDGMENTS; EXEMPTIONS

Sec. 11-7-1 Tribal Court Jurisdiction Exclusive

No property situated on Pueblo lands, or income of any person employed by the Pueblo or a Pueblo Entity on Pueblo lands, shall be subject to execution in any form, whether by attachment, garnishment or otherwise, except pursuant to a judgment of the Tribal Court, and writ issued thereon, in the manner set forth in this Article.

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

Sec. 11-7-2 Domestication of Foreign Judgments

A judgment creditor (which term, as used in this Article, includes an assignee thereof), who seeks to execute on property situated on Pueblo lands, or on the income of a person employed by the Pueblo or a Pueblo entity on Pueblo lands, based on a judgment of a state or federal court, or the court of another Indian tribe or of a foreign nation (any of which is referred to herein as a “foreign judgment”), must first domesticate such judgment in the Tribal Court in the following manner:

- A. The judgment creditor shall file a verified petition for domestication of the foreign judgment in the Tribal Court, which petition shall, at a minimum, state the following:
1. a general description of the nature of the action in which the judgment was entered;
 2. the factual and legal basis for the court’s assertion of jurisdiction over the subject matter and the person of the judgment debtor;
 3. whether the judgment is final or is subject to any appeal, and if it is subject to appeal whether any supersedeas or similar bond has been filed with respect to it or any stay of execution has been granted or is being considered by the issuing court;
 4. whether interest is accruing on the judgment, and if so the rate, the amount as of the date of filing, and the authority for the imposition and the rate of interest;
 5. whether the judgment includes costs and/or attorneys’ fees, and if so, the amount of each, and an explanation of the basis for the award of attorneys’ fees;
 6. the judgment creditor’s reason for seeking execution on the foreign judgment through the Tribal Court;
 7. a request that the Tribal Court enter judgment on the foreign judgment.

A true copy of the foreign judgment, certified by the clerk of the issuing court, shall be attached to the petition.

- B. Upon the judgment creditor’s filing of the petition and payment of the required filing

fee, the clerk of the Tribal Court shall issue a summons to the judgment debtor, requiring that the judgment debtor file an answer to the petition within 20 days of service, and the petitioner shall thereafter cause the summons and petition to be served on the judgment debtor in the same manner as in any other civil action, and shall file verified proof of such service with the Tribal Court.

C. If the judgment debtor does not file a response to the petition within twenty (20) days after service, or files a response admitting the allegations of the petition, the Tribal Court shall, upon motion of the petitioner and without further hearing or notice, enter judgment on the foreign judgment as requested in the petition, including all accrued interest, costs and any attorneys' fees as allowed by the law of the issuing court, and including costs incurred in the Tribal Court, and such judgment may thereafter be enforced in the same manner as any judgment of the Tribal Court.

D. If the judgment debtor files a response within twenty (20) days after service, denying material allegations of the petition, the Tribal Court shall set a prompt hearing on the petition, with adequate notice to the parties. At such hearing, the parties may present evidence and legal arguments relevant to the question whether the Tribal Court should recognize and domesticate the foreign judgment, in light of the factors set forth in this section. The Tribal Court may, if it believes it necessary to its decision, obtain and review any portion of the record of the underlying action in the issuing court, and copies of such portions of the record shall be made available to both parties. The Tribal Court may request briefing or such other submissions by the parties as will assist the Court in reaching its decision.

E. The Tribal Court *shall* refuse to recognize a foreign judgment if the Tribal Court concludes, based on the law applied by the court that entered the foreign judgment, and the competent evidence presented, that:

1. the issuing court lacked subject matter jurisdiction over the underlying case;
2. the issuing court lacked personal jurisdiction over the judgment debtor;
3. the rules and procedures in the issuing court fail to provide for an impartial tribunal or for a means of deciding disputes compatible with the requirements of due process; or
4. the foreign judgment would not be enforceable, for any reason, in the jurisdiction in which it was issued.

F. The Tribal Court *may*, in its discretion, refuse to recognize a foreign judgment if it concludes, based on the law applied by the Court that entered the foreign judgment, and the competent evidence presented, that:

1. the judgment was procured by fraud upon the issuing court;
2. the judgment debtor was effectively denied due process of law in the underlying action;
3. the cause of action upon which the foreign judgment was based is repugnant to the public policy of the Pueblo; or
4. the jurisdiction in which the issuing court sits has as a matter of law determined that it will not recognize or honor judgments of the Tribal Court.

G. In the event the Tribal Court denies recognition of the foreign judgment, it shall issue a written decision explaining the basis for such refusal, citing to the specific provision(s) of subsection in (E) or (F) of this section on which its decision is based, and citing the evidence presented supporting such determination.

H. If the evidence presented to the Tribal Court fails to establish any ground for refusing to recognize the foreign judgment under subsection (E) or (F) of this section, the Tribal Court shall enter judgment on the foreign judgment, including all accrued interest, costs and any attorneys' fees allowed by the law of the issuing court's jurisdiction and awarded by the foreign judgment, which judgment may be enforced in the same manner as any other judgment of the Tribal Court.

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

Sec. 11-7-3 Writ of Execution

A. A judgment creditor whose money judgment from the Tribal Court has remained unsatisfied and unstayed for thirty (30) days after its issuance may apply to the Tribal Court by motion for issuance of a writ of execution, which motion shall be supported by affidavit setting forth the following:

1. the name and last known street address of the judgment debtor;
2. the fact that the judgment remains partially or wholly unsatisfied; and
3. the nature and extent of the non-exempt property of the judgment debtor that the judgment creditor believes to be situated on Pueblo lands, or that is otherwise under the control of the judgment debtor.

B. Upon the filing of a motion in compliance with this section, the Tribal Court shall forthwith issue a writ of execution, demanding that the judgment debtor deliver up such non-exempt property in the debtor's possession or under its control as may be required to satisfy the judgment, which writ shall be personally served on the judgment debtor by an officer of the Santa Ana Police Department, in the same manner as is provided for service of a summons in a civil case. The form of the writ shall advise the judgment debtor of his or her right to file a claim of exemptions within ten (10) days of service of the writ, and shall set forth the categories of property and assets eligible to be claimed as exempt under the provisions of Section 11-7-8 of this Article. Service of the writ shall have the effect of attaching any and all non-exempt goods, chattels and personal property and assets of whatever kind, owned by the judgment debtor and found on Pueblo land. The officer shall take possession of such non-exempt property and goods as are likely to be sufficient to satisfy the judgment, and shall set a date and time for a public sale thereof in accordance with Sec. 11-7-6, except that any cash seized shall be deposited directly into the Tribal Court registry for the benefit of the judgment creditor. If the judgment debtor fails to produce sufficient non-exempt property to satisfy the judgment, the officer shall also serve the writ on any person or entity within Pueblo lands known to be indebted to the judgment debtor, directing that such person not pay any portion of such debt to the judgment debtor, but instead make payment into the Tribal Court registry, for the benefit of the judgment creditor.

C. If the judgment debtor lacks sufficient non-exempt personal property to satisfy the judgment, and is a person employed by a Pueblo entity on Pueblo land, the officer shall also serve a copy of the writ on the judgment debtor's employer, which service shall have the effect of attaching the non-exempt portion of the judgment debtor's salary or wages due, as if it were a writ of garnishment, and the garnishee shall thereafter remit such non-exempt portion, as it becomes payable to the judgment debtor, to the registry of the Tribal Court, for the benefit of the judgment creditor, until it receives notice that the judgment has been satisfied.

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

Sec. 11-7-4 Discovery in Aid of Execution

A judgment creditor seeking to enforce a money judgment of the Tribal Court may, in addition to any other remedy afforded by this Article, obtain discovery from the judgment debtor by means of written interrogatories, requests for production of documents, inspection of property, or by live deposition, in the same manner as discovery is conducted in civil actions in the Tribal Court, to determine what non-exempt property the judgment debtor may possess within the jurisdiction of the Tribal Court.

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

Sec. 11-7-5 Motion to Quash

A judgment debtor who believes that a writ of execution issued by the Tribal Court was wrongfully issued, on the ground that the judgment has been satisfied, or for any other reason, may move the court to quash the writ, setting forth the grounds for such motions and any legal arguments in support thereof, and such motion shall be considered by the Tribal Court in the manner provided in the rules of civil procedure. The filing of such motion shall have the effect of staying the writ of execution, and no execution shall proceed unless and until the motion is denied by the Tribal Court.

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

Sec. 11-7-6 Sales in Furtherance of Execution

Upon seizing any goods, chattels or other personal property of a judgment debtor, other than cash, pursuant to a writ of execution as set forth in Section 11-7-3, the Santa Ana Police Department shall set a date and time for a public sale thereof, to be held in front of the Tribal Police Department, no later than 30 days from the date of seizure of the last item seized. The Chief of the Department shall cause notice to be published in the Pueblo, no less than 10 days prior to the date of sale, in some manner reasonably likely to notify residents of the Pueblo, and shall publish such other notice as the Chief may deem appropriate, describing with specificity each item to be sold, and stating that each will be sold to the highest bidder, cash on delivery. At the time and place specified in the notice, unless the judgment debtor has paid the full amount of the judgment and produced proof of such payment satisfactory to the Chief, the Chief shall cause the seized items to be auctioned, with the proceeds to be deposited into the registry of the Tribal Court, for the benefit of the judgment creditor.

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

Sec. 11-7-7 Disposition of Funds in Court Registry

Amounts deposited to the Tribal Court registry for the benefit of the judgment creditor shall first be applied to court costs and any costs of service of the writ or sale of the seized goods. Unless the judgment debtor files with the Tribal Court a verified statement that the judgment, or any portion thereof, has been paid, the Tribal Court clerk shall periodically remit to the judgment creditor such sums, in excess of the amounts set forth above, as are deposited into the court registry for the benefit of the judgment creditor, up to the total amount of the judgment less any amounts shown to have been actually paid by the judgment debtor. Once the judgment, including accrued interest, has been fully satisfied, any excess funds remaining in the court registry shall be returned to the judgment debtor, and the clerk shall mail to the Chief of the Santa Ana Police Department and any garnishee defendant who has been served with the writ of execution a notice that the judgment has been satisfied.

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

Sec. 11-7-8 Exemptions

The following shall be exempt from any writ of execution or other process for the enforcement of money judgments, or from seizure or attachment by any receiver or trustee in bankruptcy or any insolvency proceeding:

- A. Any real property owned by the Pueblo, or by the United States in trust for the Pueblo;
- B. Any residence situated on real property described in paragraph (A) of this section, together with associated outbuildings such as barns, sheds, garages, workshops or the like;
- C. If located on real property within Pueblo Lands to which the judgment debtor holds fee title, a dwelling actually occupied by the judgment debtor as a primary residence;
- D. Personal clothing, books, furniture and cooking equipment situated in the judgment debtor's principal residence and in his residence at the Village of Tamaya; any objects or paraphernalia utilized in traditional Pueblo ceremonies or observances; family heirlooms at least fifty (50) years of age; Native-American-made pottery, jewelry and other art objects; other jewelry having a total value of up to \$5000; one motor vehicle having a market value of up to \$25,000; one motor vehicle having a market value of up to \$15,000; medical-health equipment or devices used for purposes of maintaining the judgment debtor's health or that of his or her spouse; tools of the trade having a total value of up to \$10,000; and other personal property identified by the judgment debtor having a total value of up to \$7500;
- E. Up to five (5) head of livestock (except that a cow and its calf, or a mare and her foal, shall each be considered one head), agricultural equipment and supplies used by the judgment debtor in planting, raising and harvesting crops on land owned by or assigned to the judgment

debtor, and agricultural crops in the field or harvested having a total market value of up to \$10,000;

F. The cash value of any policy of life insurance or any annuity held by the judgment debtor, the principal or proceeds of any disability or health insurance policy or employment-related pension, retirement fund or annuity owned by or payable to the judgment debtor, and any sums of money received or to be received by the judgment debtor pursuant to any government-sponsored retirement, disability or social welfare program;

G. That portion of any wages or salary payable to the judgment debtor by an employer that is a Pueblo entity, located within the exterior boundaries of the Pueblo, net of any amounts required by law to be withheld by such employer, that is the greater of 80% of such wages or salary or an amount each week that is sixty (60) times the current minimum hourly wage rate under Pueblo law, or if no such law exists, the current federal or state rate, whichever is higher.

H. Any other property or assets that are exempt from execution as a matter of federal law.

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

Sec. 11-7-9 Claim of Exemptions

A judgment debtor who resides or has property or is employed by a Pueblo entity on Pueblo land shall file, in any court in which a money judgment has been issued against him or her, within any applicable time limits, a sworn claim of exemptions under the provisions of Section 11-7-8, listing with specificity the items claimed to be exempt. With respect to judgments of the Tribal Court, a claim of exemptions shall be valid, and shall prevent execution on the property and assets identified therein, so long as it is filed with the Tribal Court and served on the judgment creditor and the Santa Ana Police Department at any time before the date set for public sale of the judgment debtor's seized property. The judgment creditor may, by motion filed within ten (10) days following service of such claim of exemptions, contest the entitlement to exemption of any item listed on the claim of exemptions, which motion shall be heard and decided expeditiously by the Tribal Court.

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

ARTICLE 8 - EXCLUSION OF NON-MEMBERS FROM TRIBAL LANDS - *Reserved* -

ARTICLE 9- SPECIAL TRESPASS ACTION

Sec. 11-9-1 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 compliance with such standards, which it does by enactment of this Article.

Enacted by Resolution Number 93-R-28, adopted September 23, 1993.

Sec. 11-9-2 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 Article 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 Article, in addition to any other liability such person may incur.

Enacted by Resolution Number 93-R-28, adopted September 23, 1993.

Sec. 11-9-3 Criminal Jurisdiction Reserved

Nothing in this Article 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; 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.

Enacted by Resolution Number 93-R-28, adopted September 23, 1993.

Sec. 11-9-4 Right of Exclusion Reserved

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

Enacted by Resolution Number 93-R-28, adopted September 23, 1993.

Sec. 11-9-5 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.

C. Once he is satisfied that a violation has probably occurred, and that the suspected violator is not a member of the Pueblo, or other Indian tribe, 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.

Enacted by Resolution Number 93-R-28, adopted September 23, 1993.

Sec. 11-9-6 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 11-9-8. 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, crossclaims 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 11-9-8 of this Article.

Enacted by Resolution Number 93-R-28, adopted September 23, 1993.

Sec. 11-9-7 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 11-9-8. 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 11-9-10 of this Article.

Enacted by Resolution Number 93-R-28, adopted September 23, 1993.

Sec. 11-9-8 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 (\$1000.00) 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 Twenty-Five Dollars (\$25.00).

Enacted by Resolution Number 93-R-28, adopted September 23, 1993.

Sec. 11-9-9 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 9-10-3 of Title IX 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 the same as would be payable for a penalty assessment for the same offense, as is set forth in Section 9-10-3(D) of Title IX of this Code.

Enacted by Resolution Number 93-R-28, adopted September 23, 1993.

Sec. 11-9-10 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 against any person remains unsatisfied, 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.

Enacted by Resolution Number 93-R-28, adopted September 23, 1993.

FORM A

SANTA ANA PUEBLO TRIBAL COURT

PUEBLO OF SANTA ANA,

Plaintiff,

vs.

No. _____

Name: _____

COMPLAINT:

Address: _____

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 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 _____, 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 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 _____ 20____.

Defendant