

PUEBLO OF SANTA ANA

PUEBLO OF SANTA ANA TRIBAL COUNCIL

RESOLUTION NO. 2023-R-36

AMENDING THE CRIMINAL CODE AND AMENDING THE LIQUOR CODE

WHEREAS, the Pueblo of Santa Ana is a federally recognized Indian tribe governed under a traditional form of government, and possessing all the inherent sovereign powers of self-government; and

WHEREAS, the Tribal Council of the Pueblo is the duly recognized decision and policy making body for the Pueblo; and

WHEREAS, by Resolution No. 2022-R-39, adopted on December 17, 2022, the Tribal Council formally adopted the 2022 Compilation of the Santa Ana Tribal Code, which embodies all of the laws adopted by the Tribal Council over the past 40 years, as well as some new codes; and

WHEREAS, by Resolution No. 2023-R-04, adopted on February 14, 2023, the Tribal Council delayed the effective date of a number of provisions of the 2022 Compilation, including Title VIII (Criminal Code), until July 1, 2023, and resolved that matters arising under the Criminal Code pending or filed prior to July 1, 2023, were to be governed by the laws that existed prior to the adoption of the 2022 Compilation, but any actions initiated in the Contemporary Court on or after July 1, 2023 shall be governed by the new rules and codes; and

WHEREAS, the Tribal Council has determined that the Criminal Code should be amended to prohibit the unlawful carrying of a firearm at Tamaya, the Pueblo's traditional village, to prohibit public intoxication anywhere on Pueblo Lands; and to prohibit the possession of alcohol at Tamaya;

NOW THEREFORE BE IT RESOLVED by the Tribal Council of the Pueblo of Santa Ana, that Title VIII (Criminal Code) of the recently adopted Santa Ana Tribal Code (2022 Compilation), is hereby amended as follows:

1. By adding a new section, Section 8-7-3.1, to Title VII, Article 7 (Weapons and Explosives), to read:

Sec. 8-7-3.1 Unlawful Carrying of a Firearm at Tamaya

A. Unlawful carrying of a firearm at Tamaya consists of carrying a loaded or unloaded firearm within the outer limits of the village of Tamaya during feast or any traditional gathering declared by the War Chief, Lt. War Chief, the Governor, or Lt. Governor except by:

1. by a law enforcement officer in the lawful discharge of the officer's duties; or

2. by a tribal official or tribal member during the performance of their duties as part of their required traditional activities.

B. As used in this section, "Tamaya" means the Pueblo's traditional village on the north side of the Rio Jemez, at the center of the Santa Ana Pueblo Grant.

C. Whoever commits unlawful carrying of a firearm at Tamaya is guilty of a Class 4 offense.

2. By adding a new section, 8-7-3.2, to Title VIII, Article 7 (Weapons and Explosives), to read:

Sec. 8-7-3.2 Civil Action

Any non-Indian who violates Section 8-7-3.1 shall be

- A. deemed to be trespassing on Santa Ana Lands and may be ejected from Santa Ana Lands by any law enforcement officer who observes such violation or is notified by the Governor, Lt. Governor, or any Tribal Official; and
- B. subject to a civil action in the Contemporary Court for damages in an amount up to five thousand dollars (\$5,000).

3. By adding a new section, 8-7-3.3, to Title VIII, Article 7 (Weapons and Explosives), to read:

Sec. 8-7-3.3 Seizure and Forfeiture of Firearm

A. A law enforcement officer who observes any person violating Section 8-7-3.1 may seize the firearm being used by such person during such violation.

B. If the violator is Indian, Article 44 of this Title VIII govern the seizure, forfeiture and disposal of the firearm.

C. If the violator is non-Indian, the firearm may be retained until the conclusion of any civil proceedings in the Contemporary Court, but once such proceedings are concluded, or if no civil proceeding has been initiated within thirty (30) days after the violation of Section 8-7-3.1, the firearm shall be returned, on request, to the violator or lawful owner if the violator is not the lawful owner, provided that the owner of the firearm may lawfully possess a firearm. Any firearm that has not been claimed within ninety (90) days after being seized shall be deemed to be abandoned and Article 44 of this Title VIII shall govern the forfeiture and disposal of the firearm.

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4. By adding a new section, 8-8-1.1, to Title VIII, Article 8 (Nuisances), to read:

Sec. 8-8-1.1 Public Intoxication

A person who appears in a public place while apparently under the influence of alcohol, a controlled substance, and/or a toxic vapor, in such a condition that the person is unable to exercise care for the safety of that person or others, is guilty of a Class 5 offense.

5. By amending Title XVII, Article 3, at Section 17-3-7, by striking that section in its entirety and substituting therefor the following:

Sec. 17-3-7 Possession for Personal Use

A. Except as provided in subsection B of this section, possession of alcoholic beverages for personal use shall be lawful within the Santa Ana Indian Reservation only if such alcoholic beverages were lawfully purchased from an establishment duly licensed to sell such beverages, whether on or off the Santa Ana Indian Reservation, and are possessed by a person or persons 21 years of age or older. Such possession is otherwise prohibited.

B. It shall be unlawful for any person to possess, including in a residence or vehicle, alcoholic beverages within the outer limits of the village of Tamaya (the Pueblo's traditional village on the north side of the Rio Jemez, at the center of the Santa Ana Pueblo Grant) during feast or any traditional gathering or traditional obligation as declared by the War Chief, Lt. War Chief, the Governor, or Lt. Governor.

6. Pending the effective date of the amendments to the Liquor Code herein, it shall be unlawful for any person to possess, including in a residence or vehicle, alcoholic beverages within the outer limits of the village of Tamaya (the Pueblo's traditional village on the north side of the Rio Jemez, at the center of the Santa Ana Pueblo Grant) during feast or any traditional gathering or traditional obligation as declared by the War Chief, Lt. War Chief, the Governor, or Lt. Governor, and any person that violates this prohibition shall be punishable by imprisonment up to 364 days, a fine up to \$5,000, or both such imprisonment and fine.
7. The amendments to the Criminal Code herein shall be effective as of the date that the Tribal Council adopts this Resolution and the amendments to the Liquor Code shall be effective upon certification by the Secretary of the Interior and publication in the Federal Register, provided that matters pending in the Contemporary Court arising under the sections amended herein shall continue to be governed by the laws in existence at the time of filing, but any actions under the sections amended herein initiated in the Contemporary Court on or after the effective date of the amendments

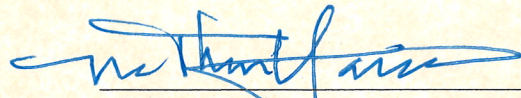
herein shall be governed by the amendments.

8. Except as specifically amended by this Resolution, the Pueblo of Santa Ana Tribal Code (2022 Compilation) remains in full force and effect.
9. The Governor of the Pueblo is further authorized to do any and all things necessary to carry out the intent of this resolution.

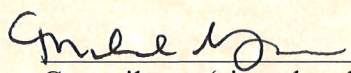
CERTIFICATION

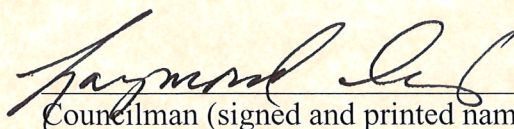
I, the undersigned, as Governor of the Pueblo of Santa Ana, hereby certify that the Pueblo of Santa Ana Tribal Council, at a duly called meeting convened on the 17th day of July, 2023, at the Pueblo of Santa Ana, at which a quorum was present, approved the foregoing Resolution, and that 16 voted for and 0 were opposed.

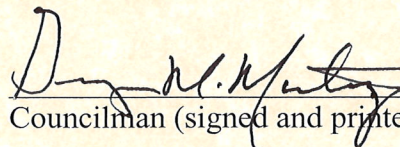
GOVERNOR


Nathan Garcia

ATTEST:

 Michael Garcia
Councilman (signed and printed name)

 Raymond Coriz
Councilman (signed and printed name)

 George Montoya
Councilman (signed and printed name)