

## **TITLE IV - TRIBAL MEMBERSHIP; REGULATION OF NON-MEMBERS**

### **CHAPTER 25 - MEMBERSHIP**

#### **Sec. 25.1      Children of Married Members**

***[Repealed]***

1939 Membership Ordinance, Dec. 15, 1939, sec. 1; Repealed, Res. No. 2014-81, Dec. 18, 2014; approved by Sec'y, Feb. 19, 2015.

#### **Sec. 25.2      Children of Male Members Married to Non-Members**

***[Repealed]***

1939 Membership Ordinance, Dec. 15, 1939, sec. 2; ; Repealed, Res. No. 2014-81, Dec. 18, 2014; approved by Sec'y, Feb. 19, 2015.

#### **Sec. 25.3      Children of Female Members Married to Non-Members**

***[Repealed]***

1939 Membership Ordinance, Dec. 15, 1939, sec. 3; ; Repealed, Res. No. 2014-81, Dec. 18, 2014; approved by Sec'y, Feb. 19, 2015.

#### **Sec. 25.4      Naturalized members**

***[Repealed]***

1939 Membership Ordinance, Dec. 15, 1939, sec. 4; ; Repealed, Res. No. 2014-81, Dec. 18, 2014; approved by Sec'y, Feb. 19, 2015.

#### **Sec. 25.5      Official Register of Enrolled Members**

A. The "Santa Clara Pueblo Register of Enrolled Members" (hereinafter referred to as "the Register"), prepared by the Pueblo's Office of Vital Statistics and Enrollment ("OVSE"), identifies the persons who are enrolled as members of the Pueblo as of December 18, 2014, subject to any corrections that may be made by the Tribal Council.

B. OVSE shall periodically, and no less often than annually, publish a revised version of the Register, incorporating changes made under the provisions of Resolutions Nos. 2014-82 and 2014-83 and this Chapter, and making any appropriate corrections based on information obtained by OVSE (except that no person shall be added to or deleted from the Register except in accordance with the procedures set forth herein or in Resolution No. 2014-82) and noting the fact and date of death of any person listed who has passed away since publication of the last version, which revised Register shall be made available to the Governor's Office and such other offices or agencies as the Tribal Council may determine is appropriate.

Enacted by Res. No. 2014-83, Dec. 18, 2014.

#### **Sec. 25.6      Membership Status of Persons Both of Whose Parents Are Members**

Any person, both of whose biological parents are enrolled members of the Pueblo as shown by the Register, shall be considered to be a member of the Pueblo, upon such person's submission to OVSE, or the submission on behalf of such person, of a certified copy of such person's birth certificate and any other information required by that office showing that such person's parents are Pueblo members (but provided that in the event the person's birth certificate fails to identify the person's father, the person must submit either a sworn affirmation by the

father, together with a report from a reputable testing facility confirming such claim of paternity by DNA testing, or a final court decree determining such person's paternity), and upon approval of the person's membership by the Tribal Council.

Enacted by Res. No. 2014-83, Dec. 18, 2014.

Sec. 25.7      Membership Status of Persons Born On or After December 18, 2014, Only One of Whose Parents is a Member

Any person born on or after December 18, 2014, either of whose biological parents is a member of the Pueblo as shown by the Register, may become a member of the Pueblo, upon such person's submission to OVSE, or the submission on behalf of such person, of a certified copy of such person's birth certificate and any other information required by that office showing that [one of] such person's parents are Pueblo members (but provided that in the event the person's birth certificate fails to identify the person's father, the person must submit either a sworn affirmation by the father, together with a report from a reputable testing facility confirming such claim of paternity by DNA testing, or a final court decree determining such person's paternity), and upon approval of the person's membership by a majority vote of the Tribal Council.

Enacted by Res. No. 2014-83, Dec. 18, 2014.

Sec. 25.8      Interim Procedure for Determining Membership Status of Persons Born Before December 18, 2014, Only One of Whose Parents Was a Member

A. Any person, only one of whose biological parents is an enrolled member of the Pueblo, and which person was born before December 18, 2014, may apply for membership in the Pueblo in accordance with the following standards and procedures:

1. A person who is 18 years of age or older shall submit a verified application to OVSE, on a form to be developed by that office in conjunction with the Pueblo's general counsel, and approved by the Tribal Council, that shall require, among other things, the following information:

a) the applicant's name, current address, birthplace and birthdate, Social Security number, e-mail address if available, and current employment if any;

b) the names, birthdates and birthplaces, and last known addresses, for each of the applicant's biological parents, the tribal membership of each, if any, and any tribal or Bureau of Indian Affairs census number, and the basis for Santa Clara Pueblo membership of the parent who is a member of the Pueblo;

c) the names, addresses, birthdates and birthplaces of the applicant's biological siblings, and the tribal membership of each, if any;

d) if the applicant is married, the name, address, birthdate and birthplace and tribal membership, if any, of his or her spouse, and the same information as to any children of the applicant (whether or not the applicant is married);

e) whether the applicant has ever resided within the exterior boundaries of the Pueblo's grant or reservation, and if so the dates of such residence, the extent to which the applicant speaks and understands the Tewa language, the extent to which the applicant has previously participated in traditional and community activities of the Pueblo, and whether the applicant has ever disregarded or disobeyed a decision or directive of the Tribal Council;

f) whether the applicant is currently, or has ever been, enrolled in any other Indian tribe, and if yes as to either, the basis for such enrollment, the circumstances of the applicant's disenrollment if applicable, whether the applicant has ever been excluded from another Indian tribe, and if the applicant is currently enrolled a statement that the applicant would disenroll from the other tribe as a condition of becoming a member of Santa Clara Pueblo; and

g) the applicant's reason for wanting to become enrolled as a member of the Pueblo.

Each application shall be accompanied by a certified copy of the applicant's birth certificate, and any other documentation required by OVSE showing the person's parentage, the tribal membership of either parent, and any other documentation bearing on the matters set forth in the application; and the applicant shall at the time of filing the application pay a fee, in an amount set from time to time by the Tribal Council, reasonably estimated to cover the costs of processing the application and to pay for all required background investigations.

2. An application for membership in the Pueblo for a person who is under the age of 18 may be submitted to OVSE by the biological parent who is a member of the Pueblo, and in such case those questions that are inapplicable due to the applicant's age shall be marked "N/A."

3. An applicant with minor biological children may apply for membership on behalf of the minor children by submitting completed applications for the children with the applicant's application. The Tribal Council will consider such applications as a package, and any action taken on the adult applicant's application will likewise apply to the applicant's biological children.

4. An applicant who can trace his lineage directly back to an enrolled member of the Pueblo, but who is excluded from membership because a member of each generation from the enrolled member to the applicant was excluded from membership in the Pueblo by virtue of the [now repealed] 1939 membership law (in that a female parent who was a member of the Pueblo had married outside of the Pueblo), or was excluded from membership by virtue of the so-called [now repealed] unwritten law (in that a male parent, a member of the Pueblo, had fathered a child with a non-member out of wedlock), may seek to establish membership by submitting membership applications for the member of each intervening generation who could have become an enrolled member but for the 1939 membership law or the unwritten law, beginning with the member of the earliest such generation. If such person is deceased, the applicant may submit an application for posthumous admission to membership on behalf of the deceased person, unless that person was enrolled in another Indian tribe at the time of his or her

death, in which case posthumous membership will not be considered (unless the parent has been posthumously disenrolled from the other tribe). If the Tribal Council approves that application, the applicant may then submit an application for the member of the next generation, and so on, until one of the applicant's parents has been enrolled as a member of the Pueblo, at which time the applicant may submit an application for his or her membership.

5. OVSE shall undertake to investigate the accuracy of the information set forth in the application, and may conduct, directly or through the Police Department or by contract with a private investigative service, a criminal background check as to any applicant of the age of 18 or older who has not resided at the Pueblo for the five years preceding the filing of the application. At the conclusion of its investigation, OVSE shall prepare a report to the Tribal Council summarizing the key facts relative to the application, to which shall be attached the application and any documents submitted by the applicant and/or obtained by OVSE. The report shall note with particularity any facts determined by OVSE by apparently authentic documentation that appear to conflict with information supplied by the applicant. The report, with attachments, shall be submitted to the Office of the Governor, who shall prepare complete copies thereof and distribute them to the members of the Tribal Council.

6. The Tribal Council, once all members have had an adequate opportunity to review the report, application and attachments, shall determine by majority vote whether the applicant should be admitted to conditional membership in the Pueblo. The Tribal Council may, in the Council's discretion, require that a living adult applicant, and any children included with that person's application, or the applicant and his or her living parents in the case of a minor applicant, or a lineal descendant of a deceased applicant, appear before the Council for an interview before the Tribal Council takes action on the application. The Tribal Council need not give any reason for its decision, but it is the intention of the Council that persons who reside in and have become part of the cultural community of the Pueblo, and who have not engaged in serious criminal activity or misrepresented any material facts on their applications, should ordinarily receive some preference in favor of their applications, and that persons who have any serious criminal history or who have misrepresented any material facts in connection with their applications should ordinarily not be considered for membership.

7. No application for membership in the Pueblo may be considered where the applicant is a person who was formerly enrolled in the Pueblo, but who voluntarily disenrolled and whose disenrollment was approved by the Tribal Council.

B. The decision of the Tribal Council shall be noted in an appropriate space on the application form, which shall be returned to OVSE. OVSE will promptly notify the applicant of the action. The Tribal Council's decision shall be final and non-reviewable by any court.

C. Except in the case of an applicant who is deceased, initial Tribal Council approval of an application for membership shall confer conditional membership on the applicant, in accordance with the following:

1. The term of conditional membership for an adult shall be determined by the Tribal Council, but shall not be longer than two years from the date of the Tribal Council action.

The period of conditional membership for a minor shall last at least until the minor reaches age 18, but shall be a minimum of two years.

2. During the period of conditional membership, the conditional member shall not be entitled to hold any land assignment (except in the case of an applicant who was previously considered to be a member of the Pueblo, and received an assignment during such period, but was removed from the Register by a determination by the Tribal Council that the person had been mistakenly enrolled), or to hold any elected position within the tribal government, or to vote in tribal elections, or to share in any distributions of tribal assets; but such person shall be entitled to receive health care, educational services and social services through any governmental programs intended to serve tribal members, and shall further be entitled to hunt, fish and gather natural materials from tribal lands in accordance with Pueblo law; but provided that the Tribal Council may impose other limitations on the rights of a conditional member, in its discretion.

3. After the conclusion of the period of conditional membership, the conditional member may seek full membership in the Pueblo, by submitting a letter making such request to the Office of the Governor. The Governor shall schedule a time at which the conditional member will meet with the Tribal Council for an interview, and shall request OVSE to supply an updated report concerning the conditional member before such interview, which report shall be distributed to the members of the Tribal Council.

4. Following the interview, the Tribal Council may decide to admit the conditional member to full membership, or to extend the period of conditional membership by a period of up to two years, after which the conditional member may again request full membership (but only one such extension of conditional membership shall be granted), or to deny the request, in which case the conditional member shall relinquish any and all rights and privileges of membership and shall be considered a non-member of the Pueblo, with no right to reapply for membership.

5. A conditional member who is also a member of another Indian tribe must disenroll from that tribe before such person can become a full member of the Pueblo.

6. The Tribal Council's decision shall be final and non-reviewable by any court.

D. OVSE shall maintain complete files on all applications for membership in the Pueblo, and shall maintain the official Register, which shall be updated as persons are approved for conditional or full membership, and as enrolled members become deceased. All of the records of OVSE shall be considered confidential, and may be disclosed only to the Governor and members of the Tribal Council for bona fide governmental purposes of the Pueblo. The provisions of Section 27.14 of the Santa Clara Pueblo Tribal Code (2006 Comp.) shall apply fully to violations of this provision, except that OVSE may report to any person making a request as to the membership status of any person, based on the information in its files, but otherwise it shall not give out any information except as set forth herein.

Sec. 25.9      Voluntary Relinquishment of Tribal Membership

A. Any enrolled tribal member of the Pueblo who is eighteen years of age or older may choose to voluntarily relinquish his or her tribal membership, in accordance with the provisions of this section.

B. In order to voluntarily relinquish tribal membership, a member must complete a Relinquishment Statement, in the form attached to this section, which form is available from the Office of Vital Statistics and Enrollment (“OVSE”).

C. The completed Relinquishment Statement shall be reviewed by OVSE to determine whether the information is complete and correct, in accordance with OVSE’s files. OVSE shall have the member correct any errors it identifies.

D. Upon approving the Statement, OVSE shall forward the completed Relinquishment Statement form to the Governor’s Office.

E. The Governor shall arrange for the member to attend the next available meeting of the Tribal Council, at which time the member may be examined by the Governor, the Officers and members of the Tribal Council, to assure themselves that the member fully understands the consequences of relinquishment of membership in the Pueblo. Upon completion of the examination, the Tribal Council shall vote whether to accept the relinquishment of the member’s membership. The relinquishment must be approved by a majority vote of the Tribal Council.

F. A voluntary relinquishment of tribal membership shall be effective as of the date on which it is accepted by the Tribal Council. The former member will have 30 calendar days from that date within which to vacate his or her residence on Pueblo land. In the event the former member fails to vacate by that time, the Pueblo may initiate an action for ejectment of the former member, in the manner provided in the Non-Member Residence Code, specifically Section 27.11 of that Code.

G. A member whose request for relinquishment of membership is approved by the Tribal Council loses all rights and privileges of membership in the Pueblo as of the date the approval becomes effective, including (but not limited to) the right to hold assignments of tribal land, the right to plant crops or graze livestock on tribal land, the right to hunt, fish and to gather plants, wood and mineral material on tribal land, the right to vote in tribal elections, and the right to enjoy all of the services provided by the Pueblo to its members.

H. Any member of the Pueblo who aids or abets a former member who has voluntarily relinquished his or her tribal membership in exercising or attempting to exercise any rights or privileges of membership in the Pueblo is guilty of an offense, and upon conviction thereof may be fined up to one thousand dollars (\$1000.00).

I. A person who has voluntarily relinquished his or her membership in the Pueblo, with the approval of the Tribal Council, is not eligible to apply for re-enrollment in the Pueblo, nor shall such person be eligible to apply for residence within Pueblo lands under the provisions of

the Non-Member Residence Code, Chapter 27 of this Title IV.

J. The provisions of paragraphs F, G, H and I of this section shall be applicable to any and all persons who have voluntarily relinquished their membership in the Pueblo, regardless of when such relinquishment became effective.

Enacted by Res. No. 2015-75, Nov. 25, 2015.

**SANTA CLARA**

POST OFFICE BOX 580  
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**INDIAN PUEBLO**

ESPANOLA, NEW MEXICO  
87532

**VITAL STATISTICS**

**RELINQUISHMENT STATEMENT**  
**Request to Relinquish Tribal Membership**

I, \_\_\_\_\_, whose birthdate is \_\_\_\_\_ do hereby request that I be allowed to relinquish my tribal membership with Santa Clara Pueblo. I make this request of my own free will, with no promises or coercion; and I further understand that I will be subject to the provisions of Sec. 25.9 – Voluntary Relinquishment of Tribal Membership, under Title IV of the Santa Clara Pueblo Tribal Code. A copy of that section has been provided to me.

I understand that, as is set forth in Section 25.9, the relinquishment of my membership in the Pueblo of Santa Clara is effective as of the date the Tribal Council approves my Request to Relinquish Tribal Membership, and from that date I will have thirty (30) calendar days to vacate the lands of the Pueblo of Santa Clara.

I also understand that upon the approval of my relinquishment of membership, I will not be able to reapply for membership with the Pueblo of Santa Clara, nor will I be entitled to reside on Santa Clara lands, nor will I enjoy any of the rights, privileges or benefits of membership in the Pueblo. *Furthermore I understand that the Pueblo of Santa Clara does not allow requests for relinquishment on behalf of minor children, and requires that relinquishment may only be granted to a person of 18 years of age or older.*

| Cards Returned | Tribal Enrollment | Explain: |
|----------------|-------------------|----------|
|                |                   |          |

What Tribe will you be transferring your membership to? \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_



Sec. 25.10     Banishment

A.     Banishment is an extraordinary power of the Tribal Council that should only be used to address the most serious breaches of acceptable conduct, and should generally be used as a last resort.

B.     A Pueblo member who is determined by the Tribal Council to constitute a threat to the safety and welfare of the Pueblo community, based on the grounds set forth in subsection D of this Section, may be subject to banishment from Pueblo Lands under this Section.

C.     Definitions: for purposes of this Section, the following definitions shall apply:

1.     “Banishment” means that the banished Pueblo member may not reside, work, attend any event, visit friends or family, patronize any place of business or otherwise spend any time at any location on Pueblo Lands, unless allowed by decision of the Tribal Council, but banishment shall not prohibit the Pueblo member from passing through Pueblo Lands on a state highway or attending a required appearance before the Tribal Court or Tribal Council.

2.     “Pueblo Lands” means all lands within the exterior boundaries of the Santa Clara Pueblo grant, as well all lands held in trust by the United States for the Pueblo.

3.     “Pueblo member” means a person who is acknowledged in the manner determined by the Tribal Council as a member of the Pueblo under the Pueblo’s existing membership laws.

D.     The Council may determine that a Pueblo member constitutes a threat to the safety and welfare of the Pueblo community if that Pueblo member has:

1.     been convicted in any jurisdiction of a serious, violent offense;
2.     been convicted in any jurisdiction of manufacturing, trafficking, or distributing controlled substances;
3.     committed repeated or serious damage to the property or the natural resources of the Pueblo;
4.     repeatedly and willfully refused to follow the lawful orders of the Governor, the Tribal Council, or the Tribal Court;
5.     aided and abetted a violation of a Tribal Court order of exclusion or banishment; or
6.     committed other conduct or created or maintained a condition that threatened the safety and welfare of the Pueblo community and that the Tribal Council determined to be sufficient cause for banishment, provided that the Pueblo member was given notice of the misconduct or objectionable condition and an opportunity to correct

the misconduct or objectionable condition, but failed to do so.

E. An action under this Section may be initiated upon the determination by a majority vote of the Tribal Council that, for one of the reasons set forth above, the Pueblo member constitutes a threat to the safety and welfare of the Pueblo community. The Tribal Council shall then direct the Governor to file a petition for banishment in the Tribal Court.

F. A petition for banishment shall state with specificity the grounds for banishment and shall be personally served on the Pueblo member by the Tribal Police or Tribal Sheriff, who shall file a return of service with the Tribal Court.

G. The Tribal Court shall schedule a hearing, to be held no fewer than ten calendar days nor more than twenty calendar days after the Pueblo member has been served with the petition. Notice of the hearing shall be served promptly on the Pueblo member.

H. The Tribal Court shall conduct the hearing in accordance with its rules of civil procedure. The Governor or the Pueblo's counsel shall present evidence establishing the grounds for banishment as set forth in this Section and showing the determination of the Tribal Council that the Pueblo member constitutes a threat to the safety and welfare of the Pueblo community. The Pueblo member shall be allowed to be represented by counsel or other spokesperson, at his or her own expense, and shall be permitted to cross examine any witnesses presented by the Pueblo, and to present his or her own witnesses and evidence in response. As soon as possible following the conclusion of the hearing, the court shall issue a written order, copies of which shall be served promptly on the Governor's office and the Pueblo member. If the court rules in favor of the Pueblo, it shall direct the Pueblo member to immediately leave Pueblo Lands.

I. The Pueblo member may appeal an order of banishment issued under this Section to the Tribal Council by filing a written notice of appeal with the Tribal Court within ten calendar days after the written order is received by the member. The notice of appeal shall generally state the grounds for the appeal. The Tribal Court shall promptly transmit the notice of appeal and the case file to the Governor's office, and the Tribal Council shall promptly schedule a hearing on the matter and shall provide notice of such hearing to the Pueblo member. The Pueblo member shall be allowed to return to the Pueblo for the hearing, but for no other purpose. At the hearing, the Pueblo member shall be entitled to state, either in person or through counsel or other spokesperson, his or her grounds for believing that the order of banishment was improperly issued under the provisions of this Section or is otherwise unwarranted as a matter of law or fact, and the Pueblo, through the Governor or through counsel, may state the grounds on which the banishment was ordered. Arguments shall be based on the record as presented to the Tribal Court, and no new evidence shall be allowed. The Tribal Council may go into executive session to discuss the matter following presentation of arguments but shall vote whether to affirm or reverse the order when it comes out of executive session. The decision of the Tribal Council shall be final and non-reviewable. If the order of banishment is affirmed the Pueblo member shall leave Pueblo lands immediately.

J. An order of banishment shall not be stayed pending any appeal to the Tribal Council.

K. A Pueblo member who has been banished in accordance with the provisions of this Section, and who violates the order of banishment, may, upon conviction of such offense, be sentenced to confinement for up to one year or to pay a fine of up to \$5,000.00, or to both such confinement and fine.

L. A Pueblo member who is banished in accordance with the provisions of this Section shall be deemed to have relinquished any land assignment formerly held by such member, and any such assignment shall revert to the Pueblo.

M. Any Pueblo member who aids or abets another Pueblo member who is banished in accordance with the provisions of this Section to violate the order of banishment may, upon conviction of such offense, be sentenced to confinement for up to one year or to pay a fine of up to \$5,000.00, or to both such confinement and fine.

N. Any person who has been banished from the Pueblo pursuant to an order issued under this Section may apply to the Pueblo Tribal Council in writing for revocation or modification of such order. A hearing on the application shall be conducted at the earliest possible time after the application is received, and the banished person shall receive notice of the hearing and permission to attend the Tribal Council meeting for that purpose. The person may be represented by counsel or other spokesperson, and may speak and present witnesses and documentary evidence in support of his or her application. The decision of the Tribal Council following such hearing shall be final and binding, and not subject to review in any forum.

O. The Pueblo will publish, in some appropriate manner, a notice naming each tribal member who has been banished from the Pueblo pursuant to this Section. The notice shall state that aiding or abetting such person to violate the order of banishment is a punishable offense. It shall further state that any person who becomes aware that a banished person is violating the banishment order must immediately notify a Pueblo law enforcement officer or the Office of the Governor. The Pueblo shall also publish, in a comparable manner, notice of any decision of the Tribal Council to revoke or modify an order of banishment.

Enacted by Res. No. 2021-015, Mar. 12, 2021; amended by Res. 2023-090, October 27, 2023.

## CHAPTER 26 - EXCLUSION OF NON-MEMBERS

### Sec. 26.1 Exclusion from the Pueblo of Santa Clara

Any person who is not a member of the Santa Clara Pueblo may be excluded from any lands within the jurisdiction of the Pueblo of Santa Clara for any of the following reasons:

A. Repeated commission of a crime or breach of peace as defined by Pueblo, State or Federal laws.

B. Conviction in any jurisdiction for manufacturing, trafficking, or distributing controlled substances, or for any other felony or serious violent offense.

C. Repeated willful failure to adhere to Pueblo laws and regulations or failure to correct a violation of such laws and regulations after Pueblo Trial Court order that it be done.

D. Repeated invasion of the privacy of the residents within the jurisdiction of the Pueblo of Santa Clara.

E. Unauthorized entry onto Pueblo or individually owned or controlled land for any purpose, including but not limited to camping, hunting, fishing, trapping, timber cutting (including Christmas trees), digging for artifacts, desecrating religious sites or burial grounds or other activity involving wrongful taking of or damage to the property of the Pueblo or of any resident of the Pueblo of Santa Clara.

F. Any other misconduct or objectionable conditions found by the Council to be sufficient cause for expulsion, provided that the person is first advised of the objection and given notice to cease but nevertheless continues the misconduct or condition.

G. Conducting business activities within the exterior boundaries of the Pueblo of Santa Clara without a Pueblo business license.

H. Improper and willful interference with business authorized by the Pueblo of Santa Clara Council under the provisions of this Code.

I. A non-member domiciled in the residence occupied by a member without required permission of the Non-Member Residence Committee.

J. Aiding and abetting a violation of a Tribal Court order of exclusion or banishment.

Formerly Sec. 17.1, Santa Clara Law and Order Code 1985; amended, Res. No. 2021-016, March 12, 2021; approved by Sec'y June 8, 2021.

## Sec. 26.2 Exclusion Procedure.

The procedure for exclusion for any reason shall be as follows:

A. An action for exclusion shall be initiated by a majority vote of the Tribal Council finding that there exist grounds for exclusion under this Chapter and directing the Governor to initiate an exclusion proceeding in the Pueblo Tribal Court by filing a Petition for Exclusion of the person, setting forth the grounds for exclusion as determined by the Tribal Council. The Tribal Court shall then cause a summons and a copy of the Petition to be served on the respondent by any Pueblo law enforcement officer. The summons shall set a time, not less than ten calendar days after service is made, at which time the person must appear before the Tribal Court to show cause why he or she should not be excluded from the Pueblo.

B. At the time specified in the summons served on the person, the Tribal Court shall hold a hearing under the Rules of Civil Procedure of this Code to decide whether or not that person shall be excluded from the Pueblo.

C. If the person does not appear at the hearing at the time and place scheduled or, if the Court finds at the hearing that cause does exist to exclude that person from the Pueblo the Tribal Court shall issue an order excluding that person from all or any part of the jurisdiction of

the Pueblo, under such conditions as may be specified in the order. The order shall be effective unless revoked or modified by the Tribal Council pursuant to Section 26.6.

D. If the final judgment of the Pueblo Tribal Court is that the person shall be excluded from the Pueblo, then the Court shall deliver the order of removal to any Pueblo law enforcement officer, who shall thereupon order the person to obey the order. If, after the required time specified in the order the person has not complied with the order, he or she may be removed bodily from the Pueblo by a Pueblo law enforcement officer as stated in the order of the Court.

E. In any case in which a person poses the likelihood of immediate danger to the life, health, morals or property of the Pueblo, residents of the Pueblo or any Pueblo members, where delay would result in irreparable harm, upon such circumstance being brought to his attention the Governor may file a verified Petition in the Tribal Court requesting the Court to order any law enforcement officer to remove the person from the Pueblo immediately, using only so much force as is reasonable and necessary to effect the removal. Upon finding that the Petition sets forth grounds for removal consistent with this Code, and that grounds for immediate removal appear to exist, the Court shall enter its order directing any Pueblo law enforcement officer to serve a copy of the order upon the person and to take steps to secure the immediate removal of such person.

F. In the case of an emergency exclusion under subsection (E), the Tribal Court order shall notify the excluded person of his or her right to request, in writing, a due process hearing, within thirty calendar days after the date the exclusion order is served on the person. The written request shall be made to the Office of the Governor, and the hearing shall be before the Tribal Council, as soon as possible after the receipt of the request. The excluded person shall receive written notice of the date and time set for the hearing, and shall be allowed appear in person before the Tribal Council. The person and the Pueblo may be represented by counsel or other spokesperson, and may present witnesses and written evidence in support of their respective positions. The decision of the Tribal Council following the hearing shall be final and binding, and not subject to appeal or review in any forum.

Formerly Sec. 17.2, Santa Clara Law and Order Code 1985; amended by Res. No. 2013-60, adopted Nov. 8, 2013, approved by Sec'y April 24, 2014; amended, Res. No. 2021-016, March 12, 2021; approved by Sec'y June 8, 2021; amended by Res. No. 2023-089; approved by Sec'y December 12, 2023

### Sec. 26.3 Appeals of Tribal Court Orders to Tribal Council.

An order issued by the Tribal Court pursuant subparagraphs (C) or (D) of Section 26.2 shall include a provision stating that it may be appealed to the Tribal Council, by the filing of a Notice of Appeal with the Tribal Court and with the Office of the Governor, within ten calendar days after issuance of the order being appealed. The appeal shall be heard by the Tribal Council, and both the excluded person and the Pueblo may appear and be represented by counsel or other spokesperson. Arguments shall be based on the record as presented to the Tribal Court, and no new evidence shall be allowed. The decision of the Tribal Council following the appeal hearing shall be final and binding, and not subject to review in any forum.

Formerly Sec. 17.3, Santa Clara Law and Order Code 1985; amended, Res. No. 2021-016, March 12, 2021; approved by Sec'y June 8, 2021; amended by Res. No. 2023-089; approved by Sec'y December 12, 2023.

#### Sec. 26.4      Violation of Order.

Any Indian who violates any order or part thereof issued pursuant to this Chapter shall be deemed guilty of an offense and, upon failure to comply with the order of the Court, may be sentenced to confinement for a period not to exceed one year or to pay a fine of \$5,000.00 or both, with costs, and ordered to comply with the previous order or amended order issued by the Court.

Any non-Indian who violates any order or part thereof issued pursuant to this Chapter shall be subject to a civil fine of up to \$1,000 for the first offense and up to \$5,000 for subsequent offenses.

Formerly Sec. 17.4, Santa Clara Law and Order Code 1985; amended, Res. No. 2021-016, March 12, 2021; approved by Sec'y June 8, 2021.

#### Sec. 26.5      Aiding and Abetting a Violation of Order.

Any Indian who aids and abets a person who is subject to an order pursuant to this Chapter to violate such order may, upon conviction of such offense, be sentenced to confinement for up to one year or to pay a fine of up to \$5,000.00, or to both such confinement and fine.

Any non-Indian who aids and abets a person who is subject to an order pursuant to this Chapter to violate such order may, upon conviction of such offense, be fined up to \$1,000 for the first offense, and up to \$5,000 for subsequent offenses.

Approved, Res. No. 2021-016, March 12, 2021; approved by Sec'y June 8, 2021.

#### Sec. 26.6      Application for Revocation or Modification of Order.

Any person who has been excluded from the Pueblo pursuant to an order issued under this Chapter may apply to the Pueblo Tribal Council in writing for revocation or modification of such order. A hearing on the application shall be conducted in the same manner as is provided in Section 26.2(F). The decision of the Tribal Council following such hearing shall be final and binding, and not subject to review in any forum.

Formerly Sec. 17.5, Santa Clara Law and Order Code 1985; amended, Res. No. 2021-016, March 12, 2021; approved by Sec'y June 8, 2021; amended by Res. No. 2023-089; approved by Sec'y December 12, 2023.

Sec. 26.7      Notice of Exclusion Orders

The Pueblo will publish, in some appropriate manner, a notice naming each person who has been excluded from the Pueblo pursuant to this Chapter. The notice shall state that aiding or abetting such person to violate the order of exclusion is a punishable offense. It shall further state that any person who becomes aware that an excluded person is violating the exclusion order must immediately notify a Pueblo law enforcement officer or the Office of the Governor. The Pueblo shall also publish, in a comparable manner, notice of any decision of the Tribal Council to revoke or modify an order of exclusion.

Adopted by Res. No. 2023-089; approved by Sec'y December 12, 2023.