

CHAPTER 27 - REGULATION OF NON-MEMBER RESIDENCE

Sec. 27.1 Findings and Purposes.

A. The Tribal Council finds that the residence within the Pueblo community of non-members of the Pueblo raises concerns as to the social cohesiveness of the community, maintenance of law and order within the community, provision of tribal services, allocation of tribal resources and jurisdiction over such persons, among others.

B. Under Article VII, Section 2 of the Pueblo's Constitution, members of the Pueblo may rent Pueblo land to non-members only with the permission of the Tribal Council, and the Tribal Council wishes to establish an orderly process for granting such permission in appropriate cases.

C. It is therefore the purpose of this Code to establish means to determine whether or not to grant permission to non-members desiring to establish residence on Pueblo land, to assure that such non-members are acceptable to the community and are willing to comply with reasonable conditions of such residency and will be subject to the Pueblo's jurisdiction to the full extent allowed by federal law.

Enacted by Res. No. 06-32, October 27, 2006; approved by Sec'y, January 10, 2007; amended by Res. No. 2012-003, February 21, 2012, approved by Sec'y March 8, 2012.

Sec. 27.2 Definitions.

For purposes of this Code, in addition to other terms defined by tribal law, the following definitions shall apply:

A. "Clerk" means the Clerk of the Non-Member Residence Committee.

B. "Code" means this Chapter 27 of Title IV of the Pueblo of Santa Clara's Tribal Code, which is titled "Regulation of Non-Member Residence."

C. "Committee" means the Non-Member Residence Committee established by this Code.

D. "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.

E. "Non-Member" means a person who is not a Member.

F. "Owner" means the Member who owns or has control over the home, structure, or place on Santa Clara land where a Permitted Resident resides or where an applicant for Permitted Resident status proposes to reside.

G. "Permitted Resident" means a Non-Member whose residence on Santa Clara land has been permitted under the provisions of this Code.

H. “Residence” means a regular overnight presence on Santa Clara land, including in a house, apartment, mobile home, vehicle, or other permanent or temporary structure. A person has established residence for purposes of this Chapter if he or she spends five (5) nights (consecutively or non-consecutively) in any thirty-day period on Santa Clara land. However, a Non-Member’s temporary visit to Santa Clara land for purposes of participating in cultural activities shall not establish residence under this Chapter, even if such visit lasts five (5) or more nights in a thirty-day period.

I. “Santa Clara land,” for the purposes of this Code only, means land that is owned by the Pueblo or by the United States in trust for the Pueblo, but does not include land that is covered by a lease entered into by the Pueblo and approved by the Secretary of the Interior or his designee in accordance with federal law, except for leases to the Santa Clara Pueblo Housing Authority, or any similar or successor entity, for the construction of housing.

J. “Sponsor” means a Member who resides on Santa Clara land and is at least 25 years of age, and who states, in writing, on a form prescribed by the Governor, that he or she vouches for the application of a Non-Member who seeks to become a Permitted Resident under the provisions of this Code. The Sponsor shall ordinarily be the Owner, unless the Committee determines that it is appropriate for some other Member to serve as the Sponsor. The Santa Clara Pueblo Housing Authority Chairman or his or her designee may serve as the Sponsor for Permitted Residents who reside on a property within the authority of the Santa Clara Pueblo Housing Authority.

Enacted by Res. No. 06-32, October 27, 2006; approved by Sec’y, January 10, 2007; amended by Res. No. 2012-003, February 21, 2012, approved by Sec’y March 8, 2012; amended, Res. 2021-018, March 26, 2021; approved by Sec’y, June 8, 2021.

Sec. 27.3 Prohibition Against Unauthorized Residence.

No Non-Member may establish residence on Santa Clara land unless such residence is permitted in accordance with the provisions of this Code, and then only subject to the conditions set forth herein.

Enacted by Res. No. 06-32, October 27, 2006; approved by Sec’y, January 10, 2007; amended, Res. 2021-018, March 26, 2021; approved by Sec’y, June 8, 2021.

Sec. 27.4 Creation of Non-Member Residence Committee.

A. There is hereby established the Non-Member Residence Committee. The Committee shall consist of five regular members and four alternates. One of the regular members shall be the Tribal Sheriff of the Pueblo, and the other members and alternates shall be Members of the Pueblo, at least 25 years of age. Each recognized Pueblo party shall appoint one regular member and one alternate to the Committee, by delivering written notice of such appointments to the Governor. Each member and alternate (other than the Tribal Sheriff) shall serve until he or she is removed by his or her party, or until he or she resigns or is unable to continue to serve, at which time the party shall appoint a successor.

B. The Committee shall select one of its regular members annually to act as Chairman, who shall preside at all meetings and hearings of the Committee. The Governor's office shall provide meeting space for the Committee as it may require.

C. A regular Committee member who is a spouse, sibling, in-law, parent, child, step-parent or step-child of any person whose application is presented to the Committee, or of the Sponsor of any such applicant, shall recuse himself or herself from considering or being involved in any discussion or action with respect to such application, and shall notify the Governor of such recusal. The alternate from that member's party shall serve on the Committee for all purposes in connection with such application, unless that person is also a spouse, sibling, in-law, parent, child, step-parent or step-child of the applicant or Sponsor, in which case the party shall appoint a special alternate to serve with respect to such application.

D. The Committee may contract with any qualified Pueblo entity or outside agency to conduct background investigations of Non-Members seeking Permitted status under the provisions of this Code, but any such contract shall be subject to the approval of the Tribal Council.

E. There shall be a Clerk of the Committee, who shall, unless the Committee, with the approval of the Tribal Council, designates another person, be the clerk of the tribal Vital Statistics Office, and who shall be assigned half-time to the work of the Committee, on such schedule as the Committee and the Clerk shall determine. The Clerk shall handle all of the paperwork of the Committee, create and maintain application and other files in good order, schedule meetings, send out notices, collect fees and remit them to the tribal treasurer, and maintain accurate and up-to-date records of the Committee's activities and actions, and shall perform such other tasks as the Committee shall direct.

F. The Committee may adopt any procedural regulations, consistent with the terms of this Chapter, that it deems appropriate to guide its carrying out of its duties hereunder.

G. The Committee shall keep a record of Permitted Residents' participation in community work projects, as required under Section 27.7(H). At the end of each quarter of the calendar year, the Committee shall review whether there were any community work projects during that quarter and shall identify all Permitted Residents who did not participate in the community work projects during that quarter. The Committee shall then send a notice to such Permitted Residents requiring them to pay a \$100 fine for each community work project that was missed. Such notice shall also provide instructions for how to make payment to the Committee and the deadline for such payment. Failure to pay such fines may result in revocation of Permitted Resident status.

H. If the Committee learns that a person has established residence on Santa Clara land but has failed to file an application to be a Permitted Resident within the time period required under this Chapter, the Committee shall send a notice to vacate requiring that the person vacate his or her place of residence on Santa Clara land within thirty (30) days after receipt of the notice.

I. If a person has had his or her application to be a Permitted Resident denied or had his or her Permitted Resident status revoked under this Code, and the Committee determines that it is necessary for the maintenance of law and order in the Pueblo community to impose reasonable restrictions on such person's presence on Santa Clara land, such as specifying the days of the week or hours of the day that the person is permitted to be present on Santa Clara land or requiring the person to notify the Sheriff or the Santa Clara Tribal Police when they are present on Santa Clara Pueblo land, the Committee shall inform the person of such restrictions. If the Committee determines that such person constitutes a threat to the safety and welfare of the Pueblo community, it shall recommend to the Governor that the Pueblo initiate exclusion proceedings.

Enacted by Res. No. 06-32, October 27, 2006; approved by Sec'y, January 10, 2007; amended by Res. No. 2012-003, February 21, 2012, approved by Sec'y March 8, 2012; amended, Res. 2021-018, March 26, 2021; approved by Sec'y, June 8, 2021.

Sec. 27.5 Application for Permitted Resident Status.

A. Any Non-Member who resides on Santa Clara land must have a Member as a Sponsor and must apply to the Committee for Permitted Resident status within ninety (90) days after the date he or she establishes residence on Santa Clara land, except that a Non-Member who is a child of 17 years of age or younger, and who resides with his or her parent or legal guardian, shall be permitted to reside with the parent or legal guardian on Santa Clara land if the parent or legal guardian is a Member, or if the parent or legal guardian is granted Permitted Resident status as provided herein.

B. The application for approval as a Permitted Resident shall be on a form prescribed by the Committee, which shall:

1. Inform the applicant that he or she has the right to appeal the decision of the Committee to the Tribal Council and may do so by filing a written notice of appeal with the Clerk within fifteen (15) days after issuance of the Committee's decision.

2. Inform the applicant that the decision of the Tribal Council is final.

3. Inform the applicant that a false statement made by the applicant on the application could result in denial of the application, or revocation of its approval.

4. As to Non-Members residing on Santa Clara Land at the time this Code is enacted, inform the applicant that if his or her application is denied, he or she must vacate his or her residence on Santa Clara land within thirty (30) days after the Committee's decision is final, or be subject to an eviction action in Tribal Court.

C. The applicant shall provide the following information:

1. The full name, birthdate and Social Security number of the applicant, and the names of his or her spouse and children, if any, and their birthdates;

2. The full name of the Member who will serve as Sponsor for the applicant;

3. A statement signed by the proposed Sponsor certifying such Member's willingness to serve as Sponsor for the applicant, vouching for the applicant's worthiness to be permitted to reside on Santa Clara land, and verifying that the Member is the Owner or, if not the Owner, explaining why the Member should nonetheless be permitted to serve as the applicant's Sponsor;

4. The specific location on Santa Clara land where the applicant proposes to reside, the full name of the Owner of such location, if the applicant is not the spouse or child of a Member who has a right to reside at such location, the nature and terms of the agreement between the applicant and the Owner showing that the applicant has the Owner's consent to reside there, but provided that no such agreement between a Member and a Non-Member may exceed a term of two years;

5. The applicant's place(s) of residence during the five years preceding the date of the application;

6. Whether the applicant is employed, and if so, the nature of such employment, the position held, the name and address of the employer, and the date on which such employment commenced; and the same information for the applicant's prior employment, if any, during the five-year period preceding the date of the application;

7. Whether the applicant has ever been charged with a crime (other than a traffic offense not involving damage to person or property and not involving alcohol or controlled substances) in any jurisdiction, and if so, as to each such charge the date, place, and nature of the charge (including the court where the charge was filed and docket number, if known), and the final disposition thereof;

8. Whether the applicant is a member of any Indian tribe, and if so the name of the tribe and the applicant's census or other membership number, if any;

9. Whether the applicant proposes that any Non-Member minor child will reside with the applicant, whether on a temporary, occasional or permanent basis, and if so the name and age of each such child, and the name of the parents and lawful custodian(s) of each such child (but a separate application must also be submitted for each such child);

10. Whether the applicant has a spouse or any children not proposing to reside with the applicant, and if so the name and address of such spouse or children, a statement whether the applicant has any legal obligation to provide financial support to such spouse or children, and if so the nature and extent of such obligation and the jurisdiction in which such obligation was imposed;

11. A statement as to why the applicant wishes to reside on Santa Clara land.

D. The application shall also be accompanied by such fee as the Committee shall reasonably establish, to cover the cost of processing the application. All such fees shall be transmitted by the Clerk to the tribal treasurer, but shall be credited by the treasurer to the

account of the Committee, to be used to defray the costs of the Committee's work. Applicants who will reside on Santa Clara land as hospice or home health care workers shall be exempt from the application fee if they provide documentation verifying their employment and a schedule of the hours that they will be working.

E. Upon receipt of a completed application and the required fee, the Committee shall undertake such investigation of the applicant as the Committee deems necessary, and may conduct a background check of the applicant if the Committee, in its discretion, concludes that that would be helpful. The Committee shall act on the application by issuing a written decision thereon within sixty (60) days after its submission, which decision shall be delivered to the applicant and the Governor. The Committee shall approve the application unless the application or additional information obtained by the Committee indicates any of the following:

1. The applicant has deliberately made a material misstatement of fact or has deliberately omitted material information required to be provided in the application as submitted;
2. The applicant has no valid basis for occupying a residence on Santa Clara land, or no Member willing to act as the applicant's Sponsor;
3. Residence on Santa Clara land by the applicant would be likely to give rise to unlawful conduct, a threat to the peace or security of other residents, a nuisance condition, or any other circumstance adversely impacting the Pueblo community.

F. If the Committee approves the application, the decision setting forth such approval shall clearly inform the applicant of the privileges, status and obligations of a Permitted Resident, as set forth in Section 27.7 of this Code, and of the circumstances that could result in revocation of such permitted status, as set forth in Section 27.8 of this Code, and it shall further inform the applicant of the limited term of the approved status and the obligation that it be renewed periodically as set forth in Section 27.6 of this Code.

G. If the Committee rejects the application, it shall explain the basis for the rejection, with reference to one or more of the grounds set forth in Section 27.5(E), and shall give notice to the applicant of his or her right to appeal the decision to the Tribal Council. The Committee shall also inform the applicant that the applicant must vacate his or her place of residence on Santa Clara land within 30 days after the Committee's decision to deny the application is final. The Committee shall also inform the applicant of any reasonable restrictions regarding the applicant's presence on Santa Clara land that the Committee deems necessary under Section 27.4(I) of this Code.

H. If an application was rejected for failure to apply within the required time period under Section 27.5(A), the applicant may re-apply for Permitted Resident status upon a good faith showing that the non-compliance with Section 27.5(A) was accidental or should otherwise be excused.

I. If an application was rejected on the grounds set forth in Section 27.5(E)(1) through 27.5(E)(3), the applicant may only re-apply for Permitted Resident status if the Tribal

Council determines, at its discretion, that allowing another application would be consistent with the objectives of this Code and the best interests of the Pueblo.

Enacted by Res. No. 06-32, October 27, 2006; approved by Sec'y, January 10, 2007; amended by Res. No. 2012-003, February 21, 2012, approved by Sec'y March 8, 2012; amended by Res. No. 2015-01, adopted Jan. 30, 2015, approved by Sec'y on Mar. 27, 2015; amended, Res. 2021-018, March 26, 2021; approved by Sec'y, June 8, 2021.

Sec. 27.6 Term of Permitted Resident Status; Renewal.

A. An applicant who has resided on Santa Clara land for ten (10) years or longer at the time of application and who is married to a Member or has been formally adopted by a Member, and whose application has been approved in accordance with the provisions of this Code, shall be authorized to reside on Santa Clara land in conformity with the requirements of this Code unless and until such time as his or her Permitted Resident status is revoked and shall not be required to seek renewal of such approval. Each such applicant shall pay a one-time processing fee in an amount determined by the Committee.

B. For all other applicants whose applications are approved by the Tribal Council, Permitted Resident status shall be valid for a term of five (5) years from the date of approval by the Committee or the Tribal Council, but is renewable in the manner set forth herein.

1. No less than sixty (60) days prior to the expiration of each Permitted Resident's term, the Committee shall mail to the Permitted Resident at his or her last known address a renewal application, with a return envelope, that shall call for the Permitted Resident to supply any information described in Section 27.5(C) of this Code that is new or otherwise different from the information submitted in the Permitted Resident's original application or last renewal application. The mailing shall include a cover letter clearly stating the deadline for returning the completed application to the Committee, which shall be no later than fifteen (15) days from the date of mailing, and explaining the methods by which the application may be filed. The Permitted Resident must complete the renewal application, and file it with the Committee, together with any required additional information, by the deadline stated in the mailing, provided that filing for this purpose shall be accomplished by depositing the return envelope containing the completed application and any attachments in the United States mail, with appropriate first-class postage affixed, or by hand delivery to the Office of Vital Statistics, or by facsimile transmission to a fax number specified in the mailing. Notwithstanding the foregoing, the burden is on each Permitted Resident to take any and all necessary steps to assure that each Permitted Resident's application for renewal of his or her Permitted Resident status is filed with the Committee prior to the current expiration date, and the failure of any Permitted Resident to receive a renewal application from the Committee shall not constitute a valid excuse for his or her failure to submit such application in a timely manner.

2. The Committee shall approve a properly completed and filed renewal application for an additional five (5)-year term, unless the application contains information that could constitute grounds for rejection as set forth in Section 27.5(E) of this Code, or raises questions as to the existence of such grounds, in either of which cases the Committee shall

conduct its own investigation into such circumstances, or request more information from the applicant, or both. The Committee shall approve or reject the renewal application within sixty (60) days after its filing, by issuing a written decision thereon, which shall be promptly delivered to the applicant and the Governor.

3. If the Committee rejects the application, it shall explain the basis for the rejection, with reference to one or more of the grounds set forth in Section 27.5(E), and shall give notice to the applicant of his or her right to appeal of the decision to the Tribal Council. The Committee shall also inform the applicant that the applicant must vacate his or her place of residence on Santa Clara land within 30 days after the Committee's decision to reject the application is final.

Enacted by Res. No. 06-32, October 27, 2006; approved by Sec'y, January 10, 2007; amended by Res. No. 2012-003, February 21, 2012, approved by Sec'y March 8, 2012.; amended by Res. No. 2015-01, adopted Jan. 30, 2015, approved by Sec'y Mar. 27, 2015; amended, Res. 2021-018, March 26, 2021; approved by Sec'y, June 8, 2021.

Sec. 27.7 Privileges, Status and Obligations of Permitted Residents.

A. A Permitted Resident shall be entitled to reside on Santa Clara land, at the location stated in such person's application, so long as such person complies with the conditions set forth in this Section.

B. A Permitted Resident shall not be entitled to utilize tribal resources, such as grazing lands, timber, minerals, wildlife, or water for irrigation, except by express permission granted by the Tribal Council. Permitted Residents also shall not visit areas of the Pueblo that are restricted to Members, such as the agricultural fields and canyon areas, unless they are accompanied by a Member or have been granted express permission by the Tribal Council. Permitted Residents who seek Tribal Council permission under this Subsection 27.7(B) must submit a written request to the Governor, who shall place the request on the Tribal Council's agenda. The Tribal Council may wish to have the Permitted Resident and/or Sponsor appear before them. The Governor shall inform the Permitted Resident in writing whether the request was granted. The decision of the Tribal Council is final and may not be appealed to any forum.

C. A Permitted Resident whose personal circumstances, as set forth in the Permitted Resident's original application for permitted status, have changed in any material respect, or are expected to change, shall file with the Office of Vital Statistics a statement setting forth the details of the change or expected change, together with a statement by such person's Sponsor showing the Sponsor's continued endorsement of the Permitted Resident in the face of such change. In particular, each Permitted Resident shall immediately notify the Office of Vital Statistics of any change in such person's residence, mailing address, e-mail address, or Sponsor. The Governor may refer such filing to the Committee for consideration as to whether the change in circumstances warrants reconsideration of the person's permitted status.

D. A Permitted Resident shall pay in a timely manner the fees for sanitation service, water usage and other services provided to the Permitted Resident's residence by the Pueblo, as established by the Tribal Council or the responsible tribal authority.

E. A Permitted Resident who makes improvements in his or her residence on Santa Clara land shall have no right to recover any part of the value of such improvements in the event that the Permitted Resident's permitted status expires and is not renewed, or is revoked, unless the rental agreement between the Permitted Resident and the Owner of such residence expressly provides such right in writing.

F. A Permitted Resident shall be deemed to have consented to and shall be subject to the full regulatory and judicial jurisdiction of the Pueblo government and its courts with respect to any matter or circumstance arising on Santa Clara land that involves or relates to the Permitted Resident, and a Permitted Resident who is a member of a federally recognized Indian tribe shall, in addition, be deemed to have consented and shall be subject to the full criminal jurisdiction of the Pueblo government and its courts.

G. A Permitted Resident shall not violate any laws of the Pueblo or of the United States, or any applicable state law involving domestic violence, physical violence or the threat thereof, theft, property damage, manufacture or distribution of any alcoholic beverage or other controlled substance, repeated intoxication or other serious misconduct;

H. A Permitted Resident shall participate in Pueblo community work projects, such as village clean-up, ditch cleaning and the like. A Permitted Resident who is unable to participate in a Pueblo community work project shall contact the Tribal Sheriff in writing to request an alternate date to make up their community work project. Such requests shall be granted at the Sheriff's discretion. A Permitted Resident who fails to participate in all Pueblo community work projects prior to the end of each quarter of the calendar year shall be subject to a fine of \$100 for each community work project missed. Permitted Residents who reside on Santa Clara land as hospice or home health care workers shall be exempt from the requirement to participate in Pueblo community work projects.

I. A Permitted Resident shall not engage in any conduct or create any condition on Santa Clara land that amounts to a nuisance, or that otherwise seriously adversely impacts the Pueblo community.

J. Each Permitted Resident shall be issued an identification card, containing a color photograph of the Permitted Resident, as well as his or her name, address, telephone number, date of birth, date of issuance and date of expiration, which card must be kept in the Permitted Resident's possession at all times while he or she is on Santa Clara land, and must be displayed on request of an officer or official of the Pueblo.

Enacted by Res. No. 06-32, October 27, 2006; approved by Sec'y, January 10, 2007; amended by Res. No. 2012-003, February 21, 2012, approved by Sec'y March 8, 2012; amended, Res. 2021-018, March 26, 2021; approved by Sec'y, June 8, 2021.

Sec. 27.8 Circumstances Warranting Revocation of Permitted Residence

The permitted residence status of a Permitted Resident is subject to revocation in the event any of the following occurs:

A. The Permitted Resident violates any of the provisions of this Code, including but not limited to Section 27.7.

B. The Permitted Resident's Sponsor dies or moves off of Santa Clara land, or notifies the Committee in writing that such person is no longer willing to serve as the Permitted Resident's Sponsor, and the Permitted Resident is unable to find another Member who will serve as his or her Sponsor within sixty (60) days.

C. The Permitted Resident's authorization to reside at the location on Santa Clara land where such Permitted Resident has been residing expires or is terminated by the Owner, and the Permitted Resident fails to demonstrate to the Committee that the Permitted Resident has obtained a renewal of such authorization or authorization to reside at any other location on Santa Clara land from an Owner within sixty (60) days thereafter.

D. Statements made in the Permitted Resident's application for permitted residence status are found to have been materially false when made, or a new circumstance has arisen that, had it existed at the time of the application, would have warranted denial of the application.

E. The Permitted Resident challenges the jurisdiction of the Santa Clara Pueblo tribal government or of the Tribal Court in any civil action brought against such person in such court, or fails to comply with any lawful order or judgment of such court in any action to which the Permitted Resident is a party; or a Permitted Resident who is a member of a federally recognized Indian tribe challenges the criminal jurisdiction of the Tribal Court.

F. The Permitted Resident aids and abets another person in violating of any provision of this Code, any reasonable restrictions imposed by the Committee under this Code, an order of exclusion, or an order of banishment.

Enacted by Res. No. 06-32, October 27, 2006; approved by Sec'y, January 10, 2007; amended, Res. 2021-018, March 26, 2021; approved by Sec'y, June 8, 2021.

Sec. 27.9 Procedure for Revocation of Permitted Resident Status.

A. In the event any credible information is brought to the attention of the Governor that a condition or circumstance set forth in Section 27.8 of this Code exists or has occurred as to a Permitted Resident, the Governor shall refer the matter to the Committee, which shall give notice to such Permitted Resident, by certified mail, return receipt requested, or by personal service by a Santa Clara police officer, with a copy to such person's Sponsor, setting forth the condition or circumstance giving rise to possible revocation of such Permitted Resident's status, and directing the Permitted Resident to show cause within ten days of receipt of such notice why such status should not be revoked.

B. The Permitted Resident shall respond in writing to such notice, explaining in full why revocation of the Permitted Resident's status is not warranted, and may request a hearing on the matter. In the event of such a request, the Committee shall hold an administrative hearing within ten days of the receipt of such request. The evidence on which the original notice was based shall be presented, and the Permitted Resident may present evidence rebutting the

contentions set forth in the notice. The Sponsor may also appear, and may speak on the issues before the Committee. The hearing shall be recorded by audio or video tape, which shall be maintained in the Office of Vital Statistics.

C. The Committee shall issue a decision within ten days after the hearing (or, in the event no hearing was requested, within ten days after receiving the response of the Permitted Resident). The decision shall either order the revocation of the Permitted Resident's status, setting forth the specific reasons therefor with reference to the relevant provision of Section 27.8 of this Code, or shall affirm the Permitted Resident's Permitted status. If the Committee revokes the Permitted Resident's status, the order shall inform the Permitted Resident that he or she must vacate the residence within thirty days after the revocation becomes final. The Committee shall also inform the Permitted Resident of any reasonable restrictions regarding their presence on Santa Clara land that the Committee deems necessary under Section 27.4(I) of this Code. The decision shall be promptly served on the Permitted Resident in the same manner as the original notice, and on the office of the Governor.

D. A Permitted Resident who receives a notice to show cause from the Committee as described in paragraph A of this Section and who fails to respond thereto within the time allowed shall be deemed to have consented to the revocation of such person's status as a Permitted Resident, and the Committee shall promptly issue a decision revoking such person's status. The decision shall inform the Permitted Resident that he or she must vacate his or her place of residence on Santa Clara land within 30 days after the decision becomes final.

Enacted by Res. No. 06-32, October 27, 2006; approved by Sec'y, January 10, 2007; amended, Res. 2021-018, March 26, 2021; approved by Sec'y, June 8, 2021.

Sec. 27.10 Requirement to Vacate in Absence of Permitted Resident Status.

A. Any person whose application to be a Permanent Resident is denied, shall vacate his or her place of residence on Santa Clara land within 30 days after the Committee's decision to deny the application is final.

B. Any Permitted Resident who has his or her Permanent Resident status revoked shall vacate his or her place of residence on Santa Clara land within 30 days after the revocation becomes final.

C. Any person who establishes residence on Santa Clara land but fails to file an application to be a Permitted Resident in the time period required under this Chapter, shall vacate his or her place of residence on Santa Clara land within 30 days after the date of receipt of a notice to vacate from the Committee directed to that person.

D. Any person who is required to vacate his or her place of residence on Santa Clara land pursuant to this Section and who fails to so vacate shall be subject to removal or exclusion proceedings under Section 27.11.

Enacted by Res. No. 06-32, October 27, 2006; approved by Sec'y, January 10, 2007; amended, Res. 2021-018, March 26, 2021; approved by Sec'y, June 8, 2021.

Sec. 27.11 Actions for Removal and Exclusion.

A. If a person resides on Santa Clara land and is required to vacate such land under the provisions of Section 27.10 of this Code but has failed to do so within the time allowed, the Pueblo shall initiate an action in Santa Clara Tribal Court for the removal of such person. Any such action shall be governed by the rules governing ordinary civil actions in the Tribal Court.

B. In any such action for removal, the only matters at issue shall be: (i) whether the defendant resides on Santa Clara land; (ii) whether such residence requires approval under the provisions of this Code; (iii) whether the defendant has received such approval; and (iv) whether such permitted status remains in effect. If the Tribal Court finds that the defendant is residing on Santa Clara land without the requisite approval under this Code, it shall issue an order for removal of the defendant, and shall award costs and reasonable attorneys' fees to the Pueblo. If the Court finds that the defendant does not reside on Santa Clara land or that no approval is required under this Code, it shall dismiss the action.

C. An order for removal of a person from Santa Clara land shall be enforced by any officer of the Tribal Police or any other law enforcement officer having jurisdiction.

D. In addition to an action for removal, the Pueblo may also initiate an action for exclusion under Chapter 26 of this Code.

Enacted by Res. No. 06-32, October 27, 2006; approved by Sec'y, January 10, 2007; amended, Res. 2021-018, March 26, 2021; approved by Sec'y, June 8, 2021.

Sec. 27.12 Penalty for Aiding or Abetting Unlawful Residence.

Any person who aids and abets a Non-Member who is subject to removal under the provisions of Section 27.10 this Code to reside on Santa Clara land, knowing that the Non-Member lacks permitted status under this Code, is guilty of a civil offense, and is subject to a fine of up to \$1,000 for a first offense, and up to \$5,000 for subsequent offenses.

Such person may also be subject to banishment or exclusion, as appropriate, on the grounds that aiding and abetting a Non-Member to violate this Code constitutes a threat to the safety and welfare of the Pueblo community.

Enacted by Res. No. 06-32, October 27, 2006; approved by Sec'y, January 10, 2007; amended, Res. 2021-018, March 26, 2021; approved by Sec'y, June 8, 2021.

Sec. 27.13 Confidentiality

A. All records related to applications shall be confidential and not open to public inspection. No Committee member or former Committee member, or employee or former employee of the Vital Statistics Office shall disclose to any natural person, corporation, partnership, limited liability company, joint venture, association, club, company, estate, trust, political subdivision, government agency or other entity of any kind, any information contained in an applicant's file, or any other information about any applicant acquired as a result of the

Committee member's membership on the Committee or the employee's employment with the Vital Statistics Office except:

1. To the applicant or to the applicant's authorized representative upon the applicant's written request;
2. To an employee of the Pueblo or a member of the Tribal Council authorized by the Committee to obtain such information for use in connection with a governmental function; *provided* that such employee or member of the Tribal Council shall not reveal such information except as otherwise provided for in this Section;
3. To a court of the Pueblo or other court of competent jurisdiction in response to an order thereof in an action relating to residency on Santa Clara land; and
4. For statistical releases, in such a manner that the information revealed is not identified to any individual applicant.

B. Any Indian who breaches the confidentiality mandated by this Section is subject to imprisonment for a period of up to three (3) months, a fine of \$300.00, or both.

C. Non-Indians are subject to enforcement of this confidentiality provision by any means not prohibited by federal law, including but not limited to fines, civil contempt proceedings, and exclusion.

Enacted by Res. No. 2015-01, adopted Jan. 30, 2015, approved by Sec'y Mar. 27, 2015; amended, Res. 2021-018, March 26, 2021; approved by Sec'y, June 8, 2021.

Sec. 27.14 Appeals

A. An applicant may appeal a decision rejecting his or her application for Permitted Resident status, rejecting his or her application for renewal of Permitted Resident status, or revoking his or her Permitted Resident status to the Tribal Council by filing a written notice of appeal with the Clerk within fifteen (15) days from the date of mailing or hand delivery of the Committee's decision. The decision is stayed pending resolution of a timely-filed appeal.

B. In the event no notice of appeal is timely filed, the decision of the Committee shall become final at the end of the fifteen-day period.

C. Upon receipt of a timely notice of appeal, the Clerk shall transmit to the Office of the Governor a copy of the complete file of the application. The Tribal Council shall consider the appeal expeditiously, and may permit the applicant to appear and present his or her position in connection therewith. The Tribal Council may also request the Committee to appear and explain the basis for its decision. The decision of the Tribal Council on the appeal shall be final and nonreviewable in any forum.

D. If the Tribal Council affirms the decision, the Non-Member residing on Santa Clara Land must vacate his or her residence on Santa Clara land within thirty (30) days after Tribal Council's decision.

E. An appeal of a decision from the Santa Clara Tribal Court in an action for removal may be made to the Tribal Council by filing a written notice of appeal with the Clerk within fifteen (15) days after the date of mailing or hand delivery of the Tribal Court's decision. The appellant may request that the Tribal Court's decision be stayed pending resolution of a timely-filed appeal. In the event no notice of appeal is timely filed, the decision of the Tribal Court shall become final at the end of the fifteen-day period. Upon receipt of a timely notice of appeal, the Tribal Court shall transmit to the Office of the Governor a copy of the decision and record from the Tribal Court. The Tribal Council shall consider the appeal expeditiously, and may permit the defendant to appear and present his or her position in connection therewith. The decision of the Tribal Council on the appeal shall be final and nonreviewable in any forum.

Enacted by Res. 2021-018, adopted March 26, 2021; approved by Sec'y, June 8, 2021.

CHAPTER 28 - SPECIAL TRESPASS ACTION

Subchapter 1 - GENERAL PROVISIONS

Sec. 28.1 Findings

The Tribal Council finds as follows:

A. As a federally recognized Indian tribe having inherent powers of self-government, the Pueblo retains the power to impose reasonable limitations on the right of non-Indians 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.

B. The conduct of non-Indians 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.

C. The failure of non-Indians 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 Chapter.

Enacted by Res. No. 09-07, March 13, 2009; approved by Sec'y, May 11, 2009.

Sec. 28.2 Declaration of Consent to Entry; Condition Constituting Trespass

A. The Pueblo hereby consents to the presence of non-Indians on Pueblo lands for bona fide personal or business purposes, or to pass through Pueblo lands on established roadways, so long as such persons conduct themselves in accordance with the requirements of Santa Clara law, and obey all official posted notices, directives and restrictions.

B. Any non-Indian person who, while on Pueblo lands, violates any condition of such entry as set forth in paragraph (A) of this Section, or who enters upon Pueblo lands while an outstanding judgment in an action brought against such person under the provisions of this Chapter 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 Chapter in addition to any other liability such person may incur.

Enacted by Res. No. 09-07, March 13, 2009; approved by Sec'y, May 11, 2009.

Sec. 28.3 Criminal Jurisdiction Reserved

Nothing in this title shall be deemed to constitute a waiver or limitation of the Pueblo's power to try and punish criminally any person for violation of the Pueblo's laws, where such person is subject to the criminal jurisdiction of the Pueblo or consents thereto voluntarily; provided, however, that no special trespass action shall be instituted or maintained against any person for the violation of any provision of Pueblo law if such person is criminally prosecuted under Pueblo law for the same violation.

Enacted by Res. No. 09-07, March 13, 2009; approved by Sec'y, May 11, 2009.

Sec 28.4 Right of Exclusion Reserved

Nothing in this chapter shall be deemed to constitute a waiver or limitation of the Pueblo's right to exclude non-members from its lands, in accordance with the provisions of Chapter 26 of the Santa Clara Pueblo Tribal Code.

Enacted by Res. No. 09-07, March 13, 2009; approved by Sec'y, May 11, 2009.

Subchapter 2 - PROCEDURE FOR SPECIAL TRESPASS ACTION

Sec. 28.5 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 Pueblo law has been committed upon Pueblo lands by any person not subject to the criminal jurisdiction of the Pueblo.

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

C. Once the officer is satisfied that a violation has probably occurred, and that the suspected violator is not a person subject to the Pueblo's criminal jurisdiction or who is willing to consent thereto, the officer may commence a special trespass action by filling out and personally serving upon the suspected violator a summons and complaint, in the form set forth below as Form A, setting forth the particulars giving rise to the action, and specifying the date and time by which the suspected violator, who shall be the defendant in the special trespass action, must answer, which shall be not less than fifteen (15) days from the date of service of the summons and complaint on the defendant. A separate Summons and Complaint shall be prepared and served for each separate instance of trespass, and on each separate person suspected of having committed a trespass under the provisions of this Code. 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 Santa Clara Police Department.

Enacted by Res. No. 09-07, March 13, 2009; approved by Sec'y, May 11, 2009.

Sec. 28.6 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 the defendant, in an amount as set forth in Section 28.8. If the defendant 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, in accordance with the provisions of Section 28.8.

Enacted by Res. No. 09-07, March 13, 2009; approved by Sec'y, May 11, 2009.

Sec. 28.7 Default

In the event the defendant fails to file an answer or otherwise appear in response to a complaint and summons properly served upon the defendant as provided in this Code, by the date specified, on the motion of the Pueblo the court shall enter a judgment against the defendant by default, assessing damages in the maximum amount allowed by Section 28.10. 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 28.12 of this Chapter.

Enacted by Res. No. 09-07, March 13, 2009; approved by Sec'y, May 11, 2009.

Sec. 28.8 Damages; Costs

In the event the court, in any special trespass action brought under the provisions of this Code, finds in favor of the Pueblo, it shall assess damages against the defendant 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 provision of the Santa Clara Pueblo Tribal Code 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 assess damages in an amount not to exceed the maximum monetary penalty that could be imposed under Section 61.7 of the Tribal Code.

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, the court may assess damages in an amount up to the maximum monetary penalty that could be imposed under Section 59.2.3 of the Tribal Code.

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 not greater than Two Thousand Five Hundred Dollars (\$2500.00) 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 the case of a trespass arising from a violation of any other provision of tribal law, in which no serious personal injury or property damage resulted, the court may assess damages in a reasonable amount, but not to exceed One Thousand Dollars (\$1000.00).

E. In addition to any award of damages against a defendant, the Court shall assess court costs, in the amount of Fifty Dollars (\$50.00).

Enacted by Res. No. 09-07, March 13, 2009; approved by Sec'y, May 11, 2009.

Sec. 28.9 Expedited Judgment

A. A defendant alleged to have committed a trespass in connection with 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 61.1 of the Tribal Code were the defendant subject to the Pueblo's criminal jurisdiction, or of any other provision of Pueblo law that does not involve the operation of a motor vehicle where no serious personal injury or property damage occurred, and who does not contest the allegations of the complaint 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 of the complaint and summons, and mail it or deliver it to the Tribal Court together with the appropriate amount as set forth in paragraph (B) of this Section as liquidated damages, and judgment shall be entered in accordance therewith; provided, that such Consent to Entry of Judgment and the appropriate damages amount must be received by the Tribal Court within fifteen (15) days after service of the summons and 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 amount that would be due as a penalty assessment were the defendant subject to the criminal jurisdiction of the Pueblo, as set forth in Section 61.1 of the Tribal Code, or, as to violations not covered by that Section, the amount of Fifty Dollars (\$50.00).

Enacted by Res. No. 09-07, March 13, 2009; approved by Sec'y, May 11, 2009.

Sec. 28.10 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 remains unsatisfied against any person, any entry by such person upon Pueblo lands for whatever purpose shall be deemed a separate trespass and

shall subject such person to a new action under this title.

Enacted by Res. No. 09-07, March 13, 2009; approved by Sec'y, May 11, 2009.

Sec. 28.11 Confiscation and Forfeiture of Vehicles

A. Should any activity giving rise to the initiation of a special trespass action involve the use of an off-road vehicle, as defined in Section 105.2(A) of the Tribal Code, off of established roadways, the initiating officer may also confiscate the off-road vehicle in accordance with the procedures set forth in Section 105.5 of the Tribal Code.

B. Should any activity giving rise to the initiation of a special trespass action involve the use of any motor vehicle or other item of personal property, except on state highways, the initiating officer may confiscate the vehicle in accordance with any provisions of Pueblo law providing for civil forfeiture of property utilized in the commission of a trespass on Pueblo lands.

Enacted by Res. No. 09-07, March 13, 2009; approved by Sec'y, May 11, 2009.

FORM A

SANTA CLARA PUEBLO TRIBAL COURT

PUEBLO OF SANTA CLARA,
Plaintiff,

vs.

Name: _____

Address: _____

DOB: _____ Sex: _____

SSN: _____

Oper. Lic. No.: _____,

Defendant.

No. _____

COMPLAINT:

SPECIAL TRESPASS ACTION

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

_____, in that he/she did the following:

_____.

2. These actions ____ 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 Clara Pueblo Tribal Code that I have reasonable grounds to and do believe that the foregoing allegations are true and correct.

DATE: _____

COMPLAINING OFFICER

* * SUMMONS * *

The above-named Defendant is hereby commanded to answer the above complaint, by appearing personally or filing a written answer to the allegations thereof, on or before the _____ day of _____, 20____ (which is 15 days from the date of service hereof), at _____ o'clock _____.m., or a default judgment will be entered against said Defendant.

CLERK, SANTA CLARA PUEBLO TRIBAL COURT

* * * * *

ANSWER AND CONSENT TO ENTRY OF JUDGMENT

I, the above-named defendant, in answer to the foregoing Complaint, hereby state (check one):

_____ the allegations thereof are true and correct; or

_____ I do not admit the allegations but choose not to contest them;

and I hereby consent to entry of judgment against me in the amount of \$_____, and I agree to pay said sum, in full, to the Santa Clara Pueblo Tribal Court, on or before the _____ day of _____, 20_____.

I UNDERSTAND THAT THE FAILURE TO PAY SUCH SUM BY THE DATE SPECIFIED MAY RESULT IN A JUDGMENT BEING ENTERED AGAINST ME IN THE MAXIMUM AMOUNT ALLOWED BY LAW, PLUS COURT COSTS.

Defendant

Witness: _____
Officer

Date: _____