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CHAPTER 35 - JUDICIAL POWER

Sec. 35.1 Scope and Extent

A. The judicial power of the Pueblo shall be vested in the Tribal Judiciary of the Pueblo, consisting of the Tribal Court, the Children's Court, and such other courts and appellate bodies as the Tribal Council may establish from time to time.

B. The judicial power of the Pueblo of Santa Clara courts shall extend to all cases and controversies arising within the jurisdiction of the Pueblo, except matters concerning real property and membership, over which the Tribal Council retains its judicial power.

C. The Pueblo of Santa Clara courts shall have jurisdiction over:

1. Offenses committed by an Indian anywhere within Pueblo Lands, as those terms are defined in Title I of the Santa Clara Pueblo Tribal Code; and

2. All civil actions where there are sufficient contacts with the Pueblo upon which to base the exercise of jurisdiction, and the parties to which are subject to the jurisdiction of the Santa Clara Pueblo court, consistent with the constitution and laws of the Pueblo and of the United States.

Formerly Sections 1.3, 2.1, and 2.2, Santa Clara Law and Order Code 1985; amended by Res. No. 08-31, Sept. 23, 2008; approved by Sec'y, June 11, 2009. Amended by Res. No. 2021-0088, November 19, 2021, approved by Sec'y, February 02, 2022.

Sec. 35.2 Duties and Powers of Judges of the Tribal Judiciary

A. The Judges of the Tribal Judiciary shall hear and determine all matters that are duly and regularly filed in the Tribal Courts, in a fair and objective manner that affords due process to all parties, and in accordance with the provisions of this Title, and in the course thereof shall have the authority: to issue any order or writ necessary and proper to the complete exercise of their powers; to preserve order and decorum in the courts, and to punish contempt of the courts' authority, in accordance with applicable standards of due process of law, by reprimand, fine or imprisonment; and to do such other things as are reasonably appropriate to the fulfillment of the judicial function.

B. The Chief Judge of the Tribal Court shall be responsible for the overall administration of the courts, including the assignment of cases, management of the court's calendar, representation of the Pueblo Judiciary in meetings with other judges and governmental officials and the like, and related matters. The Chief Judge may designate an Associate Judge to act as Chief Judge in the Chief Judge's absence.

Formerly Sec. 3.4, Santa Clara Law and Order Code 1985; amended by Res. No. 08-31, Sept. 23, 2008; approved by Sec'y, June 11, 2009.

CHAPTER 36 - COURT STRUCTURE & ADMINISTRATION

Subchapter 1 - APPOINTMENT AND REMOVAL OF JUDGES

Sec. 36.1 Composition of Tribal Court; Appointment of Judges

A. The Tribal Court shall consist of a Chief Judge, to be designated as such by the Tribal Council, and one or more Associate Judges, the number thereof to be determined by the Tribal Council. One of the Associate Judges or the Chief Judge may be designated as Judge of the Children's Court by the Chief Judge.

B. Judges shall be compensated at rates to be determined by the Tribal Council, except that the salary of a judge shall not be reduced during that judge's term in office. Judges need not be full-time, and may serve as Judges of the Tribal Court while carrying on other work; but provided that a judge who is a practicing attorney shall be disqualified from handling any case as an attorney in the Tribal Court, so long as such person continues to serve as a Tribal Court Judge and for no less than one year after such service terminates for any reason.

C. Judges shall be appointed for an indefinite term and shall continue in office until resignation, removal or death.

D. To be considered for appointment as Chief Judge or Associate Judge, a person shall:

1. Be at least thirty (30) years of age.
2. Be of high moral character and integrity.
3. Never have been convicted of a felony involving theft, dishonesty, violence, child abuse, abuse of a household member, or sexual abuse or harassment of any person, and not within the 20-year period prior to being nominated for such position have been convicted of any felony.
4. Never have been removed from any position as judge for cause.
5. Have a combination of post-secondary education and legal education or training or prior experience as a judge sufficient to qualify the person for a judicial position.
6. Not hold any elected position in the Pueblo or be a sitting member of the Tribal Council.

E. Judges should but are not required to have prior knowledge of the language, customs, traditions and laws of the Pueblo of Santa Clara.

F. Whenever there exists a vacancy in any judgeship in the Tribal Court, the Governor shall nominate and submit to the Tribal Council the name of a qualified person who is willing to serve in such position, together with a detailed description of the person's background and experience demonstrating such person's qualifications for the position, and statements from persons familiar with the nominee's ability as a judge or legal practitioner. In selecting such nominee, the Governor shall consult with the Tribal Council, the other sitting Tribal Judges, the Pueblo's general counsel, and other appropriate persons. The Tribal Council shall give such

consideration to the nominee's qualifications and abilities as it deems appropriate. A nominee must receive the affirmative votes of a majority of the membership of the Tribal Council to be appointed as a Tribal Judge, and such appointment shall be effective as of Monday morning of the first week following the confirmation by the Tribal Council.

G. The Tribal Council shall provide for the establishment of educational and in-service training requirements for judges and shall set up programs therefor or shall require judges to attend other available training sessions, at the Pueblo's expense.

Formerly Sec. 3.1, Santa Clara Law and Order Code 1985; amended by Res. No. 08-31, Sept. 23, 2008; approved by Sec'y, June 11, 2009; Amended by Res. No. 2013-07, March 8, 2013; approved by Sec'y, May 2, 2013.

Sec. 36.1.1 Judges *Pro Tempore*

A. The Tribal Council shall, from time to time, certify, from among persons whose names are presented to it by the Governor, persons eligible to serve as judges *pro tempore* of the Tribal Court. A judge *pro tempore* must meet the qualifications set forth in Section 36.1(D), and in addition must have prior experience as a practicing attorney or judge. The names and resumés of persons certified to serve as judges *pro tempore* shall be provided to the Chief Judge.

B. Whenever, because of the disqualification, recusal or unavailability of a regular judge of the Tribal Court to hear a particular matter, or by stipulation of the parties to a civil action pending in the Tribal Court, it appears to the Chief Judge that it would be appropriate to appoint a judge *pro tempore* to hear such matter, the Chief Judge shall appoint such a judge from the names previously certified by the Tribal Council who is determined by the Chief Judge to be available and willing to serve and not subject to any conflicts of interest as to the matter, and the judge thus appointed shall proceed to preside over the matter to its conclusion, exercising the same authority as a regular Associate Judge of the Tribal Court.

C. Judges *pro tempore* shall be paid at a rate and in a manner to be negotiated between the judge and the Governor and approved by the Tribal Council at the time such person is certified, and shall also be entitled to reimbursement of expenses reasonably incurred in the course of providing services as judge *pro tempore*. When the judge *pro tempore* is appointed pursuant to a stipulation of the parties to a civil action, moreover, and not because of the unavailability of a regular judge of the Tribal Court, the cost of the judge's services, including fees and expenses, shall be divided equally among the parties to the matter, unless the parties stipulate in advance to a different allocation of costs as among them. In any such case, the Tribal accounting office shall bill the parties for reimbursement based on the judge *pro tempore*'s invoices.

D. In hearing cases in the Tribal Court, judges *pro tempore* shall be entitled to utilize the resources and facilities of the Tribal Court, to the extent such use does not conflict with the needs of regular judges of the Court, and the Clerk of the Court shall take steps to assure that the needs of judges *pro tempore* for utilization of such resources and facilities are met. Judges *pro tempore* may, in their discretion, conduct hearings and conferences in cases over which they are presiding by teleconference or at other locations of their choosing that are not inconvenient to the

parties, counsel and witnesses.

E. The Tribal Council may decertify any person previously certified as eligible to serve as judge *pro tempore*, on the basis of information showing that the person is no longer available, or engaged in misconduct while serving as judge *pro tempore*, or for any other reason on the basis of which the Tribal Council determines that decertification would be appropriate, except that the Tribal Council shall not decertify any person while such person is acting as judge *pro tempore* on a case in the Tribal Court.

Enacted by Res. No. 08-31, Sept. 23, 2008; approved by Sec'y, June 11, 2009

Sec. 36.2 Removal of Judges From the Tribal Court

A judge of the Tribal Court may be removed by the Tribal Council on the ground of gross misconduct involving moral turpitude or neglect of duty, by the following procedures:

A. Written notice of the charge, which must have been adopted by a majority vote of the Tribal Council, shall be served personally on the judge.

B. The judge shall have ten business days from such service within which to request a hearing, in writing. If such request is received by the Governor's office within such time, a hearing shall be scheduled before the Tribal Council within ten business days from receipt of the request. If no hearing is requested, the judge shall be deemed to have been removed from office effective as of close of business on the tenth business day after service.

C. At the hearing, before the full Tribal Council, the Pueblo, through its general counsel or a special counsel, shall present by sworn testimony and documentary evidence the facts supporting the charges adopted by the Tribal Council. The judge may appear personally, and may be represented by counsel, and shall be given the opportunity to cross-examine witnesses and to object to any evidence. Objections shall be ruled on by the Governor. Strict rules of evidence need not be followed, as long as evidence that is allowed is supported by reasonable indicia of reliability. The judge shall be allowed to present testimony and documentary evidence in his or her defense, subject to cross-examination and objection.

D. Following the presentation of all evidence, and closing arguments by counsel, the Tribal Council shall vote on whether to remove the judge. The votes of eight members of the Tribal Council shall be required for removal. The decision of the Tribal Council shall be final and binding.

Formerly Sec. 3.2, Santa Clara Law and Order Code 1985; amended by Res. No. 08-31, Sept. 23, 2008; approved by Sec'y, June 11, 2009.

Sec. 36.3 Disqualification of Judges

A. A judge of the Tribal Court shall recuse or disqualify himself or herself from presiding over any matter in which the judge's impartiality might reasonably be questioned, including, but not limited to, the following: (1) a matter as to which the judge has a personal bias or prejudice concerning a party, or personal knowledge of disputed facts material to the case; (2)

a matter that is the same as or is related to one in which the judge previously represented a party; (3) a matter in which the judge, or a direct family member of the judge, has a direct financial interest in the dispute, or any other interest that could be affected by the outcome; or (4) a matter any party to which is within the second degree of relationship to the judge or his spouse, or is a corporation or other entity in which the judge or any member of his immediate family has any employment or equity interest.

B. In the event that any party in a case pending before the Tribal Court believes in good faith that the judge designated to hear such case may be subject to disqualification on any of the grounds set forth in subsection (A), such party may file a motion for disqualification of such judge, setting forth the grounds with particularity, supported by such sworn statements and/or documents as the party deems relevant. Any other party may respond to the motion within 10 days of service thereof. The presiding judge shall, upon consideration of the motion and response, either recuse himself or refer the motion and response to the Chief Judge for a ruling and shall cease any further activity in the case until such ruling is rendered. If the Chief Judge denies the motion, the case shall proceed as before, but if the Chief Judge grants the motion the Chief Judge shall appoint another sitting judge or a judge *pro tempore* to hear and decide the matter. In the event any such motion for disqualification is directed at the Chief Judge, the Chief Judge shall cease any further activity in the case, and if the Chief Judge does not voluntarily recuse himself the Clerk shall forward the motion to the Governor of the Pueblo, who shall decide the motion. If the Governor decides that the motion should be granted, the Governor shall forthwith designate another judge or judge *pro tempore* to hear the matter.

Formerly Sec. 3.3, Santa Clara Law and Order Code 1985; amended by Res. No. 08-31, Sept. 23, 2008; approved by Sec'y, June 11, 2009.

Subchapter 2 - COURT CLERK

Sec. 36.4 Selection, Qualification, and Duties A. The Court Clerk shall be appointed by the Chief Judge, as provided in the Santa Clara Pueblo personnel policies and procedures.

B. The Court Clerk shall meet the following qualifications:

1. Is twenty-one (21) years of age or older and of good moral character;
2. Has never been convicted of a felony;
3. Has demonstrated competence in the skills essential to the preparation and maintenance of court records, and;
4. Has completed twelve (12) years of education or equivalent experience.

C. The duties of the Court Clerk are:

1. To supervise and keep all records, files, dockets or other records required by this Code.
2. To keep a record of all proceedings of the Court;
3. To administer oaths;
4. To collect and account for all fines, bail or bond money, fees or other funds which come to the Court, to deposit and account for all such monies in the manner prescribed by the Council;
5. To assist the Court, Court officials, and residents of the reservation in the drafting of complaints, subpoenas, warrants, and any other documents necessary to the functions of the Courts; and
6. To perform all other functions which may be required by this Code or as may be directed by the Chief Judge.

Formerly Sec. 4.1, Santa Clara Law and Order Code 1985.

Subchapter 3 - COURT RECORDS

Sec. 36.5 Scope, Copies, Ordinances, Etc.

A. The Court Clerk shall keep the Court Docket which shall consist of:

1. Names of each plaintiff and defendant in any civil or criminal proceeding;
2. Character and number of the proceeding;

3. Date of issuance of return date of any process issued therein;
4. Appearance or default of parties summoned;
5. Date and amount of any judgment or any other decision in the proceeding;
6. Any appeal therefrom;
7. Final disposition; and
8. Any other information as may be provided in this Code or directed by the Chief Judge.

Formerly Sec. 6.1, Santa Clara Law and Order Code 1985.

Sec. 36.6 Copies of Proceedings

Any party involved in the proceedings may obtain a certified copy of the Court proceedings from the Clerk upon payment of the fee contained on the schedule established by the Chief Judge, unless expressly prohibited by this Code.

Formerly Sec.6.2, Santa Clara Law and Order Code 1985.

Sec. 36.7 Pueblo of Santa Clara Laws, Ordinances, Etc.

The Pueblo of Santa Clara Judiciary shall be provided with copies of this Code, any amendments thereto, including ordinances adopted by the Council, and copies of other Federal and State laws and regulations deemed by the Judiciary necessary, proper and applicable to the rights and conduct of persons subject to the jurisdiction of the Pueblo of Santa Clara Judiciary and its judicial power and responsibilities.

Formerly Sec. 6.3, Santa Clara Law and Order Code 1985.

Subchapter 4 - ADMISSION OF ATTORNEYS TO PRACTICE

Sec. 36.8 Lay Counsel

Lay Counsel may practice in Courts of the Pueblo of Santa Clara.

A. Each litigant in a civil case and every defendant in a criminal proceeding shall have the right to have lay counsel or spokesmen of their choice represent them at their own expense at a rate not to exceed the rate approved by order of the Chief Judge.

B. If a defendant in a criminal proceeding has no such representation and cannot afford to obtain representation, then where conviction could result in confinement in a jail, the Judge may appoint lay counsel to represent the defendant at no expense to the defendant.

C. Admission of Lay Counsel or Spokesmen. All lay counsel or spokesmen who wish to be admitted to the practice before the Court of the Pueblo of Santa Clara may be admitted to practice upon approval of application in writing by order of the Chief Judge, as follows:

1. Any person who is an enrolled member of the Pueblo of Santa Clara, twenty-one (21) years of age or older, is of good moral character, and demonstrates to the Court a thorough knowledge of this Code, the Rules of the Tribal Judiciary and knowledge of the culture, traditions and laws of the Santa Clara people, is eligible to apply for admission to general practice as lay counsel or lay advocate or spokesman.

2. Any person who is admitted as lay counsel or spokesman to practice before the Courts of the Santa Clara Pueblo shall, at the discretion of the Chief Judge, furnish a bond satisfactory to the Court.

3. No lay counsel or spokesman admitted to practice may act as security for costs or as surety on any appeal or other bond in any case pending in which he is interested.

4. No lay counsel or spokesman in a case may testify as a witness of the trial thereof, except upon permission of the Court.

5. Lay counsel or spokesman may be disbarred by the Chief Judge for cause upon notice and a hearing and a finding of violation by the Chief Judge.

Formerly Sec. 6.16, Santa Clara Law and Order Code 1985.

Sec. 36.9 Professional Attorneys

Professional attorneys may practice before the Courts of the Pueblo of Santa Clara provided that any such attorney is admitted to practice before the Court.

A. Any persons appearing as a party in any civil or criminal action shall have the right to be represented by a professional attorney of their own choice and at their own expense.

B. Any attorney who is an active member in good standing of the New Mexico State Bar, or any attorney certified and eligible to practice before the Courts of any other State or the United States is eligible to be admitted to practice before the Courts of the Pueblo of Santa Clara, provided the attorney meets the admission standards.

C. Admission to Practice; To practice before the Court of the Pueblo of Santa Clara any attorney must:

1. Be an active member in good standing of the New Mexico State Bar or be certified and eligible to practice before the Courts of any other State or the United States;

2. Abide by the Rules of the Courts of the Pueblo of Santa Clara and any orders issued by the Courts;

3. Be knowledgeable and is generally informed about the Santa Clara people and their traditions and customs;

4. Payment of a fee of \$100.00 is required for admission.

5. The Chief Judge shall notify any attorney who applies to practice before the Courts of the Pueblo of Santa Clara and is admitted to practice to take the following oath:

“I do solemnly swear (or confirm) that I will support the Constitution and laws of the United States and the Constitution and Civil and Criminal Code and all ordinances and resolutions of the Pueblo of Santa Clara, and that I will maintain proper respect for the Courts and judicial officers of the Pueblo of Santa Clara.”

6. The Chief Judge may suspend any attorney from practice before the Courts of the Pueblo of Santa Clara after due notice and a hearing if any attorney shall be found guilty of the following:

- (1) Violated the oath of the Courts.
- (2) Has been disbarred from practice before any State or Federal Court;
- (3) Violated the ethics of the legal profession; and
- (4) Committed any improper or contemptuous act against the dignity of the Pueblo of Santa Clara, the Courts of the Pueblo of Santa Clara, and the Santa Clara people.

Subchapter 5 - MISCELLANEOUS

Sec. 36.10 Court Sessions

Regular sessions of the court shall be held as established by order of the Court at the Pueblo of Santa Clara Court in Santa Clara, New Mexico.

Formerly Sec. 6.4, Santa Clara Law and Order Code 1985.

Sec. 36.11 Official Station

The Pueblo of Santa Clara Court at Santa Clara, New Mexico is designated as the place where current records of the Court shall be kept and as the official station of the Clerk of the Court.

Formerly Sec. 6.5, Santa Clara Law and Order Code 1985.

Sec. 36.12 Location for Filing

All pleadings, motions and other papers shall be filed with the Pueblo of Santa Clara Court at Santa Clara, New Mexico.

Formerly Sec. 6.6, Santa Clara Law and Order Code 1985.

Sec. 36.13 Copies of Documents

Records or documents in the files of the Courts shall not be taken from the office or custody of the Court Clerk, except upon the consent of the Clerk. Only parties, litigant or counsel for parties will be allowed the right to remove documents and only for good cause shown and after giving proper receipts to the Clerk.

Formerly Sec. 6.7, Santa Clara Law and Order Code 1985.

Sec. 36.14 Notice to Parties

All cases at issue shall be set for trial on their merits at the time and place to be designated by the Court and written notice of not less than five (5) days shall be given counsel and/or to the parties.

Formerly Sec. 6.8, Santa Clara Law and Order Code 1985.

Sec. 36.15 Extension of Time

The Court may grant an extension of time to answer or otherwise plead to a complaint or amended complaint, if a written request is timely filed.

Formerly Sec. 6.9, Santa Clara Law and Order Code 1985.

Sec. 36.16 Court Decorum

The following rules shall govern Court decorum not allowing any interference or

disturbance with the proceedings before the Court.

1. A Law Enforcement or other Pueblo Officer may be appointed Court Bailiff by the Judge and the Bailiff will open each session of the Court and be present to keep order in the courtroom at all times and to carry Out orders of the presiding Judge to remove persons violating these rules.

2. The public will be permitted to the courtroom during trial sessions except that presence of spectators in the courtroom may be prohibited by the Judge during taking of certain testimony of a highly sensitive nature.

3. All men in the courtroom shall remove their hats. All persons shall be dressed in a clean, neat manner, and no persons shall smoke or chew gum in the courtroom.

4. Loud or unusual noises, the use of profane language or disturbance of any kind will not be tolerated in the courtroom.

5. No one shall be allowed in the courtroom who appears to be under the influence of intoxicating liquor or drugs.

6. Respect and courtesy shall be shown to the Judge, parties, and court officers at all times.

7. A flag of the United States and the Pueblo of Santa Clara shall be displayed in the courtroom at all times.

8. No sketches or photographs shall be taken during proceedings of the court.

Formerly Sec. 6.10, Santa Clara Law and Order Code 1985.

Sec. 36.17 Exhibits

All separate documents, photographs, papers, written or printed instruments of any nature shall be given separate exhibit numbers with exhibits for the plaintiff numbered numerically and exhibits for the defendant marked alphabetically after being admitted into evidence. In civil cases, all exhibits in the custody of the Clerk, after judgment becomes final or after final disposition of the action, shall be delivered or mailed by the Clerk to the parties offering the same or to their counsel. Any exhibits refused by a party or counsel may be destroyed or otherwise disposed of by the Clerk upon order of the Judge.

Formerly Sec. 6.11, Santa Clara Law and Order Code 1985.

Sec. 36.18 Rules of Evidence

Except as otherwise expressly provided under this Code, the Rules of Evidence

shall follow the Federal Rules of Evidence as guidelines in the criminal or civil proceedings of this Court.

Formerly Sec. 6.12, Santa Clara Law and Order Code 1985.

Sec. 36.19 Jury Trial

When a demand for trial by jury is contained within a pleading instead of being separately filed, the demand shall be brought to the attention of the Clerk by the pleader, either orally or in writing, at the time of the filing of the pleading, which shall be made within the prescribed time limit, and the Clerk shall call this demand to the attention of the Judge.

Formerly Sec. 6.13, Santa Clara Law and Order Code 1985.

Sec. 36.20 Rules Governing Jury Trial

1. In any criminal case where there is a probable jail sentence upon conviction, a trial jury may be requested by the defendant at the preliminary hearing or arraignment or by written application to the Court within three (3) days thereafter.

2. A jury shall consist of six (6) persons seated by the Chief Judge, from a list of twenty (20) resident members of the Pueblo of Santa Clara sworn in prior to questioning, with the agreement of counsel.

3. When the jury has been seated, the jurors' oath shall be administered by the Judge.

4. Verdict of the jury may be rendered by a majority vote of four (4) jurors in a civil case, and five (5) jurors in a criminal case. If the plaintiff in a civil case or prosecution in a criminal case shall fail to win the required number of juror vote, judgment shall be entered for the defendant and case dismissed.

5. Each juror shall be entitled to a fee for each day of jury service plus mileage for travel to and from Court payable by the Pueblo of Santa Clara pursuant to a schedule established by the Court and approved by the Council.

6. Either party litigant in a civil case involving a claim in excess of \$500.00 may request a jury trial except in domestic relation cases, cases involving adoptions, probates, minors, incompetence, injunctions, contempt, and cases in the Court of Appeals.

Formerly Sec. 6.14, Santa Clara Law and Order Code 1985.

Sec. 36.21 Jury Duties

The Court may order the jury to view the premises where the offense or other material facts occurred. The Court may order the discharge of a juror who becomes sick or is otherwise unable to perform his duty and substitute an alternate juror. In the absence of an alternate and the failure of the parties to stipulate to continue the trial with five (5) or less jurors, the jury shall be

discharged, and a new jury shall be formed to hear the case.

Formerly Sec. 6.15, Santa Clara Law and Order Code 1985.

Sec. 36.22 Appointment of Prosecutor

The Council may appoint a lay person or a professional attorney as a full-time or part-time prosecutor for the Pueblo of Santa Clara upon request of the Chief Judge.

1. No lay person or professional attorney shall be appointed as prosecutor unless the appointee is admitted to practice before the Court as provided by Section 36.8 or 36.9.

2. The prosecutor is authorized to sign, file, and present any complaint, subpoena, affidavit, motion or any civil or criminal process and prosecute any action, criminal or civil, before the Tribal Court on behalf of the Pueblo of Santa Clara, and to represent the Pueblo in appeals before the Appellate Court.

Formerly Sec. 6.18, Santa Clara Law and Order Code 1985.

Sec. 36.23 Subpoena

Every Judge of the Courts of the Pueblo of Santa Clara shall have the power to issue subpoenas for the attendance of witnesses either on his own motion, or any parties to the case.

1. Service of subpoenas shall be by any qualified member of the Law Enforcement staff or other officer of the Court or be any person appointed by the Court for that purpose.

Formerly Sec. 6.19, Santa Clara Law and Order Code 1985.

Sec. 36.24 Disqualification of the Judge

In the case of death, illness or incapacity of the Judge, during the course of a trial, the Chief Judge shall order a new trial and designate another Judge who shall have the same power, authority and jurisdiction as the original Judge.

Formerly Sec. 6.20, Santa Clara Law and Order Code 1985.

Sec. 36.25 Contempt of Court

Any person may be charged with contempt of Court for any of the following reasons:

1. Disorderly, contemptuous, or insolent behavior, committed in immediate view and presence of the Court and directly tending to interrupt its proceedings or to impair the respect due to its authority.

2. Any breach of the peace, noise, or other disturbance directly tending to interrupt the proceedings of the Court.

3. Willful disobedience of any process or order lawfully issued by the Court.
4. Resistance willfully offered by any person to the lawful order or the process of the Court.
5. The unlawful refusal of any person to be sworn or affirmed or refusal to answer any material questions except where refusal is based on grounds specified in the Indian Civil Rights Act, 25 U.S.C. § 1302.
6. The publication of a false or grossly, inaccurate report of the proceedings of any Court.
7. Any person who shall request a jury trial and fails to appear on date jury trial is scheduled.
8. The Court may sentence a person found to be in contempt of Court to confinement at labor for a period of not more than six (6) months or to pay a fine of not more than \$500.00 or both, with costs, and may also issue such orders as are necessary to enable the person to purge himself of the contempt. There is no right to a jury in civil contempt hearings.

Formerly Sec. 6.21, Santa Clara Law and Order Code 1985.

Sec. 36.26 Default on Fine

When a defendant defaults in the payment of a fine or any installment thereof, the Court, on its own motion, shall order the defendant to show cause why he is not in contempt and may issue a summons or an arrest warrant for the defendant's appearance. If good faith is shown or the defendant is indigent, the Court may allow additional time for payment or revoke all or part of the unpaid fine or require labor on behalf of the Pueblo of Santa Clara or upon refusal of the defendant to cooperate, the Court may order imprisonment until the defendant agrees to cooperate. The Court also may order the seizure and sale of any personal property of the defendant found within the exterior boundaries of the Pueblo of Santa Clara to satisfy the fine assessed pursuant to this Code.

Formerly Sec. 6.22, Santa Clara Law and Order Code 1985.

Sec. 36.27 Disposition of Fines, Fees, and Other payments Made to the Court

Any funds paid to the Court of the Pueblo of Santa Clara as a result of the provision of this Code or other lawful orders of the Court, shall be paid to the Clerk of the Court who shall issue a receipt therefore and shall deposit daily the funds with the Pueblo Treasurer. The funds shall be recorded upon the accounts of the Pueblo and shall be available for expenditure upon appropriation by the Council for operating expenses of the Tribal Judiciary and for such other purposes as the Council may direct.

Formerly Sec. 6.23, Santa Clara Law and Order Code 1985.

Sec. 36.28 Disposition of Equipment and Property Confiscated by the Court

Any property, including equipment, which may have been confiscated by lawful order of the Court in a criminal proceeding under the provisions of this Code shall be sold at public auction after five (5) days' notice to the owner and the proceeds thereof deposited by the Clerk of the Court into the general Pueblo Treasury. The funds shall be recorded upon the accounts of the Pueblo and shall be available for expenditure by appropriation of Council for operating expenses of the Judiciary and for such other purposes the Council may direct.

Formerly Sec. 6.24, Santa Clara Law and Order Code 1985.

Sec. 36.29 New Trial

The grounds for a new trial in a criminal proceeding as set by the Courts of the Pueblo of Santa Clara are as follows:

1. Receipt by the jury of evidence not authorized by the Court.
2. Determination by the jury of a verdict by lot, through intimidation or without a fair expression of opinion.
3. When the Court has failed to instruct the jury correctly as to the law or has improperly admitted prejudicial material as evidence or has made other errors at law prejudicial to the defendant.
4. When for other prejudicial cause the defendant has not received a fair and impartial trial.
5. New evidence discovered and not available at time of original trial.
6. On such other grounds that will provide due and proper justice as determined by the judge.

Formerly Sec. 6.25, Santa Clara Law and Order Code 1985.

Sec. 36.30 Appeals

A. Appeals from final decisions of the Tribal Court shall be taken to the Southwest Inter-Tribal Court of Appeals, except in cases involving rights to real property (other than interests in leases) and tribal membership, which matters shall remain exclusively within the jurisdiction of the Tribal Council; and the Tribal Court shall inform every party to every case in which a final judgment is rendered by that Court, at the time of the rendering of such final judgment, that any appeal from such final judgment must be taken to the Southwest Inter-Tribal Court of Appeals by filing a notice of appeal with the Clerk of the Tribal Court, with copies to be served on each party to such case and to be served on the Clerk of the Southwest Inter-Tribal Court of Appeals, c/o Clerk, Post Office Box 4456, Station A, Albuquerque, New Mexico 87196, within 30 days from the date of entry of the final judgment of the Tribal Court.

B. Appeals to the Southwest Inter-Tribal Court of Appeals shall be subject to and in accordance with the provisions of this Code and, to the extent not in conflict therewith, the rules of that court, and the Southwest Inter-Tribal Court of Appeals shall have full appellate jurisdiction to deal with and dispose of all appeals from the Santa Clara Pueblo Tribal Court in accordance with Santa Clara Pueblo law and otherwise in such manner as appears to be appropriate to the rendering of a just result.

C. Decisions of the Southwest Inter-Tribal Court of Appeals in cases appealed from the Santa Clara Pueblo Tribal Court shall be published by the Southwest Inter-Tribal Court of Appeals in its regular report of its decisions, and may be cited as authoritative precedent in any other case pending in the Pueblo of Santa Clara Tribal Court or any appeal from that Court to the Southwest Inter-Tribal Court of Appeals.

Formerly Sec. 6.26, Santa Clara Law and Order Code 1985; REPEALED, Res. No. 96-13, Aug. 16, 1996; new version enacted by Res. No. 99-25, Sept. 30, 1999, and see Res. No. 99-29, Dec. 1, 1999; amended by Res. No. 05-17, July 19, 2005; approved by Sec'y August 2, 2005.

Sec. 36.31 Terms of Probation

The Court, as a condition of any other granting probation to a defendant, may require the defendant:

1. To meet family responsibilities.
2. To undertake specific employment or occupation.
3. To undergo available medical or psychiatric treatment and to attend regular rehabilitation programs and to enter and remain in a specified institution when required.
4. To pursue a prescribed course of study or vocational training, including attendance at a Driver Training School.
5. To attend or reside in a facility established for the instruction, recreation, and residence of person on probation.
6. To refrain from frequenting unlawful or disreputable places or consorting with disreputable persons.
7. To possess no firearm or other dangerous weapon unless granted written permission by the Court.
8. To make restitution or reparation for the loss or damage of any unlawful acts of commission or omission as may be directed by the Court.
9. To remain within the jurisdiction of the Court and not to leave that jurisdiction without permission of the Court and to notify the Court or an officer thereof of any change in address or employment.
10. To report as directed to the Court to a probation officer or other person designated by the Court.

11. To post a bond, with or without surety, conditioned on the performance of any of these conditions.

12. To satisfy any other conditions imposed by the Court reasonably related to the rehabilitation of the defendant.

Formerly Sec. 6.27, Santa Clara Law and Order Code 1985.

Sec. 36.32 Dismissal of Cases on File

All cases now pending or on the docket of the Court, both civil and criminal, upon which no action has been taken for a period of three (3) years after filing are dismissed, without prejudice, except that any party to such case may within six (6) months after final approval of this Code move to have the case renewed or reinstated.

Formerly Sec. 6.28, Santa Clara Law and Order Code 1985.

Sec. 36.33 Cooperation by Federal and State Employees

Employees of the Bureau of Indian Affairs and the State of New Mexico, particularly but not limited to those who are engaged in law and order, social services, health and educational work, may be requested by the Court to assist the Court in carrying out its duties but no such employee shall obstruct, interfere with or, in any manner, attempt to influence the functions of the Court.

Formerly Sec. 6.29, Santa Clara Law and Order Code 1985.

Sec. 36.34 Amendment of the Rules of the Courts of the Pueblo of Santa Clara

1. These rules may be amended by the Pueblo of Santa Clara Judiciary with the approval of the majority of the Council.

2. Any amendments to these rules of the Court shall be posted at the Santa Clara Tribal Office and published in a local newspaper as notice to the public.

Formerly Sec. 6.30, Santa Clara Law and Order Code 1985.