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CHAPTER 45 – LAW ENFORCEMENT OFFICERS, PROBATION AND PAROLE OFFICERS, JUVENILE OFFICERS, CONSERVATION OFFICERS, AND OTHER OFFICERS OF THE COURT

Sec. 45.1 Selection, Duties and Authority

1. The Governor, with the approval of the Council, shall appoint Law Enforcement Officers, Probation and Parole Officers, Juvenile Officers, Conservation Officers, traditional and other officers.

2. The Council shall approve the qualifications, terms of employment, and compensation of such officers.

3. The Council shall approve the duties of such officers, including their authority to make arrests for violations of this Code or any others issued thereunder, and to carry out official orders of the Court.

4. With the approval of the Council, Law Enforcement Officers, Probation and Parole Officers, Juvenile Officers, Conservation Officers, and other officers of the Court may accept deputy commissions from the city, county, state and Federal agencies.

5. The Council may issue commissions with power of arrest for violations of this Code to city, county, state and Federal officers, and may deputize Law Enforcement Officers of the State, County, and Municipality.

Formerly Sec. 5.1, Santa Clara Law and Order Code 1985; Amended, Res. No. 2017- ___, August ___, 2017; approved by Sec'y, _____

Sec. 45.2 Bonding of Pueblo of Santa Clara Judiciary and Court Personnel

1. All Judges, Clerk, and other Court personnel shall be bonded at the expense of the Pueblo of Santa Clara, in amounts determined by the Council.

Formerly Sec. 5.2, Santa Clara Law and Order Code 1985.

CHAPTER 46 - AUTHORITY OF LAW ENFORCEMENT OFFICERS

Sec. 46.1 Police Authority

The Tribal Council shall designate by the issuance of credentials such officers who shall have the powers:

1. Of peace officers for the purpose of enforcing the provisions of this Code;
2. To detain any person for any violation, committed in their presence, of any of the provisions of this Code;
3. When on duty, upon reasonable belief that any vehicle is being operated in violation of any provision of this Code, to require the driver thereof to stop, step out of his vehicle, and exhibit his driver's license and the registration evidence issued for the vehicle and submit to an inspection of such vehicle, the registration plates, and registration evidence thereon or to an

inspection and test of the equipment of such vehicle;

4. To inspect any vehicle of a type required to be registered hereunder in any public garage or repair shop or in any place where such vehicles are held for sale or wrecking, for the purpose of locating stolen vehicles and investigating the title and registration thereof.

Formerly Sec. 33.1, Santa Clara Law and Order Code 1985.

Sec. 46.2 Report of Stolen and Recovered Motor Vehicles

Every sheriff, chief of police, or peace officer commissioned by the Pueblo of Santa Clara upon receiving reliable information that any vehicle has been stolen shall immediately but in no case later than one (1) week after receiving such information report such theft to the New Mexico State Police, unless prior thereto information has been received of the recovery of such vehicle. Any said officer upon receiving information that any vehicle which he has previously reported as stolen, has been recovered, shall immediately report the fact of such recovery to the New Mexico state Police.

Formerly Sec. 33.2, Santa Clara Law and Order Code 1985.

Sec. 46.3 Obedience to Police Officers

Any person who shall willfully fail or refuse to comply with any lawful order or direction of any police officer invested by law of the Santa Clara Council with authority to direct, control or regulate traffic shall be deemed guilty of a violation and upon conviction may be subject to a penalty assessment of \$100.00 and to such other orders of the Hearing Officer or Tribal Court.

Formerly Sec. 33.3, Santa Clara Law and Order Code 1985.

Sec. 46.4 Officer to be in Uniform

No person shall be cited for violating the Traffic Safety Code or other Rule or Regulation relating to motor vehicles punishable as a violation except by a peace officer who, at the time of arrest, is wearing a uniform clearly indicating his official status.

Formerly Sec. 40.8, Santa Clara Law and Order Code 1985.

Sec. 46.5 Arrest Without Warrant

1. Members of the New Mexico State Police, Sheriffs, Tribal Police Officers if commissioned by the State of New Mexico, Bureau of Indian Affairs Police Officers, if in uniform, may arrest without warrant any person:

A. Present at the scene of a motor vehicle accident;

B. On a highway when charged with theft of a motor vehicle; or

C. Charged with crime in another jurisdiction, upon receipt of a message giving the name or a reasonably accurate description of the person wanted, the crime alleged and a statement he is likely to flee the jurisdiction of the state.

2. To arrest without warrant, the arresting officer must have reasonable grounds, based on personal investigation, which may include information from eyewitnesses, to believe the person arrested has committed a crime.

3. Law Enforcement Officer of the Santa Clara Pueblo or Bureau of Indian Affairs, if in uniform, may arrest, if commissioned by the State of New Mexico, or detain for appropriate arresting officers, persons who commit the following crimes, except that Indian persons may be arrested without State commission.

Formerly Sec. 40.9, Santa Clara Law and Order Code 1985.

CHAPTER 47 - EXTRADITION

Sec. 47.1 Authority of the Governor

1. The Governor may in his discretion have arrested and delivered up to the executive authority of any State, Tribe or the United States any person charged with a crime in the jurisdiction and who has fled from justice and is found in the jurisdiction of the Pueblo of Santa Clara.

Formerly Sec. 12.1, Santa Clara Law and Order Code 1985.

Sec. 47.2 Demand for Extradition - Requirements

No demand for the extradition of a person charged with crime in another jurisdiction shall be recognized by the Governor unless in writing alleging that the accused was present in the demanding jurisdiction at the time of the commission of the alleged crime, and that thereafter he fled from that jurisdiction, and accompanied by a copy of an indictment found or by information supported by affidavit in the jurisdiction of the crime, or by a copy of an affidavit made before a magistrate or Judge there, together with a copy of any warrant which was issued thereupon, together with a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the executive authority of the demanding jurisdiction that the person claimed has escaped from confinement or has broken the terms of his bail, probation or parole. The indictment, information or affidavit made before the magistrate or Judge must substantially charge the person demanded with having committed a crime under the law of that jurisdiction; and the copy of indictment, information, affidavit, judgment of conviction or sentence must be certified or authenticated by the executive authority upon demand.

Formerly Sec. 12.2, Santa Clara Law and Order Code 1985.

Sec. 47.3 Investigation of Demand - Report

When a demand shall be made upon the Governor for the surrender of a person so charged with crime, the Governor shall cause an investigation to be made of the demand and to report to him the situation and circumstances of the person so demanded and whether he ought to be surrendered.

Formerly Sec. 12.3, Santa Clara Law and Order Code 1985.

Sec. 47.4 Return or Surrender of Person Charged in Another Jurisdiction

When it is desired to have returned to the Pueblo of Santa Clara a person charged by the Pueblo of Santa Clara with a crime and such person is imprisoned or is held under criminal proceedings then pending against him in another jurisdiction, the Governor may agree with the executive authority of such other jurisdiction for the extradition of such person before the conclusion of such proceedings or his term of sentence in such other jurisdiction, upon condition that such person be returned to such other jurisdiction at the expense of the Pueblo as soon as the prosecution in the Pueblo is terminated. The Governor may also surrender on demand of the executive authority of any other jurisdiction any person in the jurisdiction of his Pueblo who is charged with having violated the laws of the jurisdiction whose executive authority is making the demand, even though such person left the demanding jurisdiction involuntarily.

Formerly Sec. 12.4, Santa Clara Law and Order Code 1985.

Sec. 47.5 Surrender of Persons Charged with Crime Committed in Other Than Demanding Jurisdiction

The Governor may also surrender, on demand of the executive authority of any other jurisdiction, any person in the jurisdiction of the Pueblo of Santa Clara charged in such other jurisdiction with committing an act in the Pueblo of Santa Clara in a third jurisdiction, intentionally resulting in a crime in the jurisdiction whose executive authority is making the demand and the provisions of this Section not otherwise inconsistent, shall apply to such cases, even though the accused was not in that jurisdiction at the time of the commission of the crime, and has not fled therefrom.

Formerly Sec. 12.5, Santa Clara Law and Order Code 1985.

Sec. 47.6 Warrant of Arrest

If the Governor decides that the demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the Pueblo Seal, and be directed to any Law Enforcement Officer for execution. The warrant must substantially recite the facts necessary to the validity of the issuance.

Formerly Sec. 40.1, Santa Clara Law and Order Code 1985.

Sec. 47.7 Authority of Officer or Other Person Under Warrant

Such warrant shall authorize the Law Enforcement Officer to whom directed to arrest the accused at any time and any place where he may be found within the jurisdiction of the Pueblo of Santa Clara and to command the aid of all Law Enforcement Officers in the execution of the warrant, and to deliver the accused, subject to the provisions of this Section, to the duly authorized agent of the demanding jurisdiction.

Formerly Sec. 12.7, Santa Clara Law and Order Code 1985.

Sec. 47.8 Authority to Command Assistance

Every Law Enforcement Officer empowered to make the arrest shall have the same authority, in arresting the accused, to command assistance therein, a Law Enforcement Officer has by law in this execution of any criminal process directed to them, with like penalties against those who refuse their assistance.

Formerly Sec. 12.8, Santa Clara Law and Order Code 1985.

Sec. 47.9 Rights of Persons Arrested

No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding him shall have appointed to receive him unless he shall first be taken forthwith before a Judge of the Pueblo of Santa Clara who shall inform him of the demand made for his surrender and of the crime with which he is charged, and that he has the right to demand the procurement of legal counsel at his own expenses; and, if the prisoner or his counsel shall state that he or they desire to test the legality of his arrest, the Judge shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. When such writ is applied for, notice thereof, and of the time and place of hearing thereof, shall be given to the tribal prosecutor and to the said agent of the demanding jurisdiction.

Formerly Sec. 12.9, Santa Clara Law and Order Code 1985.

Sec. 47.10 Delivery of Person in Violation of Section - Penalty

Any Law Enforcement Officer, who shall deliver to the agent for extradition of the demanding jurisdiction, a person in his custody under the Governor's warrant, in willful disobedience of the previous Section shall be guilty of an offense and upon conviction thereof may be sentenced to confinement for a period not to exceed six (6) months or to pay a fine of \$500.00 or both, with costs.

Formerly Sec. 12.10, Santa Clara Law and Order Code 1985.

Sec. 47.11 Confinement of Prisoner

The Law Enforcement Officer executing the Governor's warrant of arrest, or the agent of

the demanding jurisdiction to whom the prisoner may have been delivered may, when necessary, confine the prisoner in the jail of any jurisdiction through which he may pass and the keeper of such jail must receive and safely keep the prisoner until the Law Enforcement Officer is ready to proceed on his route, such officer being chargeable with the expenses of keeping.

The Officer or agent of demanding jurisdiction to whom a prisoner may have been delivered following extradition proceedings in another jurisdiction or to whom a prisoner may have been delivered after waiving extradition in such other jurisdiction, and who is passing through the jurisdiction of the Pueblo of Santa Clara with such a prisoner for the purpose of immediately returning such prisoner to the demanding jurisdiction may when necessary, confine the prisoner in the jail of the Pueblo of Santa Clara through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the Law Enforcement Officer or agent having charge of him is ready to proceed on his route, such Officer or agent however, being chargeable with the expense of keeping: Provided, however, that such Officer or agent shall produce and show to the keeper of such jail satisfactory written evidence of the fact that he is actually transporting such prisoner to the demanding jurisdiction after requisition by the executive authority of such demanding jurisdiction. Such prisoner shall not be entitled to demand a new requisition while in this Pueblo.

Formerly Sec. 12.11, Santa Clara Law and Order Code 1985.

Sec. 47.12 Charge or Complaint - Warrant of Arrest

Whenever any person within the jurisdiction of this Pueblo of Santa Clara shall be charged on an oath of any credible person before any Judge of this Pueblo with the commission of any crime in any other jurisdiction and, with having fled from justice or with having been convicted of a crime in that jurisdiction and having escaped from confinement or having broken the terms of his bail, probation or parole or whenever complaint shall have been made before any Judge in this Pueblo setting forth on the affidavit or any credible person in another jurisdiction that a crime has been committed in such other jurisdiction and that the accused has been charged in such jurisdiction with the commission of a crime and has fled from justice or with having been convicted of a crime in that jurisdiction and having escaped from confinement or having broken the term of his bail, probation or parole, and is believed to be in the jurisdiction of this Pueblo, the Judge shall issue a warrant directed to any Law Enforcement Officer commanding him to apprehend the person named therein, wherever he may be found in this Pueblo and to bring him before the same or any other Judge of the Pueblo or which may be available in our convenient of access to the place where the arrest may be made to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

Formerly Sec. 12.12, Santa Clara Law and Order Code 1985.

Sec. 47.13 Arrest Without Warrant

The arrest of a person may be lawfully made also by a Law Enforcement Officer of a private person, without a warrant upon reasonable information that the accused stands charged in

the Courts of another jurisdiction with a crime but when so arrested the accused must be taken before a Judge of the Trial Court with all practicable speed and complaint must be made against him under oath setting forth and ground for the arrest and thereafter his answer shall be heard as if he had been arrested on a warrant.

Formerly Sec. 12.13, Santa Clara Law and Order Code 1985.

Sec. 47.14 Preliminary Examination - Commitment

If, from the examination before the Judge, it appears that the person held is the person charged with having committed the crime alleged and that he has fled from justice, the Judge must, by a warrant reciting the accusation, commit him to the Pueblo of Santa Clara jail for such a time not exceeding thirty (30) days and specified in the warrant as will enable the arrest of the accused to be made under a warrant of the Governor on a requisition of the executive authority of the jurisdiction having jurisdiction of the offense, unless the accused gives bail.

Formerly Sec. 12.14, Santa Clara Law and Order Code 1985. Sec.

47.15 Bail

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the jurisdiction in which it was committed, a Judge of the Pueblo Tribal Court may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned upon his surrender, to be arrested upon the warrant of the Governor.

Formerly Sec. 12.15, Santa Clara Law and Order Code 1985.

Sec. 47.16 Failure to Make Timely Arrest or Demand for Extradition

If the accused is not arrested under warrant of the Governor by the expiration of the time specified in the warrant or bond, a Judge may discharge him or may recommit him for further period not to exceed sixty (60) days or a Judge may again take bail for his appearance and surrender but within a period not to exceed sixty (60) days after the date of such new bond: Provided, that the Governor may, except in cases in which the offense is punishable under laws of the demanding jurisdiction by death or life imprisonment, deny a demand for extradition when such demand is not received by the Governor before the expiration for one-hundred eighty (180) days from the date of arrest in this Pueblo of the alleged fugitive in the absence of a showing of good cause for such delay.

Formerly Sec. 12.16, Santa Clara Law and Order Code 1985.

Sec. 47.17 Failure to Appear - Bond Forfeiture - Recovery on Bond

If the prisoner is admitted to bail and fails to appear and surrender himself according to the conditions of his bond, the Judge, by proper order, shall declare the bond forfeited and order

his immediate arrest without warrant if he is within the jurisdiction of the Pueblo of Santa Clara. Recovery may be had on such bonds given by the accused in criminal proceedings within the jurisdiction of the Pueblo.

Formerly Sec. 12.17, Santa Clara Law and Order Code 1985.

Sec. 47.18 Pending Criminal Prosecution

If a criminal prosecution has been instituted against such person under the laws of the Pueblo and is still pending, the Governor in his discretion, either may surrender him on demand of the executive authority of another jurisdiction or hold him until he has been tried and discharged or convicted and punished by the Pueblo.

Formerly Sec. 12.18, Santa Clara Law and Order Code 1985.

Sec. 47.19 Recall or Reissuance of Warrant

The Governor may recall his warrant of arrest or may issue another warrant whenever he deems proper.

Formerly Sec. 12.19, Santa Clara Law and Order Code 1985.

Sec. 47.20 Demand by Governor of the Pueblo of Santa Clara for Extradition - Warrant Agent

Whenever the Governor of the Pueblo of Santa Clara shall demand a person charged with crime or with escaping from confinement or breaking the terms of this bail, probation or parole in the jurisdiction of this Pueblo, from the executive authority of any other jurisdiction, authorized to receive such demand, he shall issue a warrant under the Seal of the Pueblo to a Law Enforcement Officer commanding him to receive the person so charged if delivered to him and convey him to the proper officer of the Pueblo.

Formerly Sec. 12.20, Santa Clara Law and Order Code 1985.

Sec. 47.21 Application for Requisition for Return of Person - Contents - Affidavits - Copies

1. When the return to this Pueblo of a person charged with a crime under the jurisdiction of this Pueblo is required, the Court shall present to the Governor written application for a requisition for the return of the person so charged, the crime charged against him, the approximate time, place, and circumstances of its commission, the jurisdiction in which he is believed to be, including location of the accused therein at the time the application is made and certifying that, in the opinion of the Judge, the ends of justice require the arrest and return of the accused to this Pueblo for trial and that the proceeding is not instituted to enforce a private claim.

2. When the return to this Pueblo is required of a person who has been convicted of a

crime under the jurisdiction of this Pueblo and has escaped from confinement or broken the terms of his bail, probation or parole, the Court shall present to the Governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape from confinement or of the breach of the terms of his bail, probation or parole, the jurisdiction in which he is believed to be, including the location of the person therein at the time the application is made.

3. The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two (2) certified copies of the indictment or information and affidavit filed or of the complaint made to the Judge, stating the offense with which the accused is charged or of the judgment of conviction or of the sentence. The Judge may also attach such further affidavit and other documents in duplicate as he shall deem proper to be submitted with such application. One (1) copy of the application, with the action of the Governor indicated by endorsement thereon, and one (1) of the certified copies of the indictment, complaint, information, and affidavits or of the judgment of conviction or of the sentence shall be filed in the Office of the Governor's Secretary to remain as record in that Office. The other copies of all papers shall be forwarded with the Governor's requisition.

Formerly Sec. 12.21, Santa Clara Law and Order Code 1985.

Sec. 47.22 Civil Process - Service on Extradited Person

A person brought into this Pueblo by or after waiver of, extradition based on a criminal charge shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceeding to answer which he is being or has been returned until he has been finally convicted in the criminal proceeding or, if acquitted, until he has had reasonable opportunity to return to the jurisdiction from which he was extradited.

Formerly Sec. 12.22 Santa Clara Law and Order Code 1985.

Sec. 47.23 Waiver of Extradition

Any person arrested in the jurisdiction of this Pueblo charged with having committed any crime in another jurisdiction or alleged to have escaped from confinement or broken terms of his bail, probation or parole, may waive issuance and service of the warrant provided for and all other procedure incidental to extradition proceedings by executing or subscribing in the presence of any tribal court a writing which states he consents to return to the demanding jurisdiction; provided, however, that before such waiver shall be executed or subscribed by such person it shall be the duty of such Judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus.

If and when such consent has been duly executed, it shall forthwith be forwarded to the Office of the Governor and filed therein. The Judge shall direct the Law Enforcement Officer of having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding jurisdiction, and shall deliver or cause to be delivered to such agent or agents a copy of such consent: Provided, however, that nothing in this Section shall be deemed to

limit the rights of the accused person to return voluntarily and without formality to the demanding jurisdiction nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding jurisdiction or this Pueblo.

Formerly Sec. 12.23, Santa Clara Law and Order Code 1985.

Sec. 47.24 Rights, Powers, Privileges or Jurisdiction of Pueblo Not Waived

Nothing in this Section contained shall be deemed to constitute a waiver by the Pueblo of Santa Clara of its rights, power or privileges to try such demanded person for crime committed within the jurisdiction of this Pueblo or of its right, power or privilege to regain custody of such person by extradition proceedings otherwise for the purpose of trial sentence or punishment for any crime committed within this Pueblo, nor shall any proceedings had under this Section which result in or fail to result in extradition be deemed a waiver by the Pueblo of Santa Clara of any of its rights, privileges or jurisdiction in any way whatsoever.

Formerly Sec. 12.1, Santa Clara Law and Order Code 1985.

Sec. 47.25 Trial for Other Crimes

After a person has been brought back to this Pueblo by or after waiver of extradition proceedings, he may be tried in this Pueblo for other crimes which he may be charged with having committed here as well as that specified in the requisition for his extradition.

Formerly Sec. 12.25, Santa Clara Law and Order Code 1985.