

TITLE III - TAXATION

CHAPTER 15 - GENERAL PROVISIONS AND DEFINITIONS

Sec. 15.1 Policy and Purpose

The purpose of this Tax Code is to establish a system for the fair and expeditious imposition and administration of taxes by the Pueblo, so as to provide a regular source of revenue to help fund the costs of governmental services to the Pueblo's citizens, to regulate the conduct of persons doing business within Pueblo Lands and to protect and enhance the political integrity, the economic security, and the health and welfare of the Pueblo.

Enacted by Res. No. 03-15, June 3, 2003; approved by Sec'y, July 1, 2003; amended by Res. No. 21-19, March 26, 2021; approved by Sec'y, May 17, 2021.

Sec. 15.2 Applicability

This Code applies to all persons engaged in activities subject to the taxes provided for herein; *provided* that nothing in this Code shall be construed as imposing a Tax on the Pueblo or the federal government.

Enacted by Res. No. 03-15, June 3, 2003; approved by Sec'y, July 1, 2003.

Sec. 15.3 Definitions

As used in this Code, the following capitalized terms shall have the following meanings:

A. "Administrative Costs" means those costs and expenses reasonably incurred by the Tax Administrator in collecting Taxes from a Taxpayer who fails to pay any Taxes, penalties, or interest at the time due, including but not limited to attorney's fees, court costs, filing fees, costs of collection outside the jurisdiction of the Pueblo, and expenses for experts, accountants, appraisers and others;

B. "Assessment Date" means each January 1st or such other date as is specified in this Code for an assessment of the taxable value of an activity or land use;

C. "Business" means any commercial activity engaged in or caused to be engaged in within Pueblo Lands for the purpose of direct or indirect benefit, profit, gain, or advantage to any person or entity, and shall include the delivery on Pueblo Lands of any good or service by a person or entity that does not have a physical presence on Pueblo Lands, as well as the delivery to a person or entity located on Pueblo Lands of any digital goods or services, including software, applications, digital media, video, music, video games, e-books, webinars, online classes, and online trainings, as well as licenses of such digital goods and services;

D. "Code" means the Pueblo of Santa Clara Tax Code, unless otherwise specified.

E. "Commissioner" means each duly appointed member of the Tax Commission;

F. "Construction" means building, altering, repairing, or demolishing in the ordinary

course of business any improvement on real property. "Construction" also means leveling or clearing land, excavating earth, drilling wells of any type including, but not limited to seismograph shot holes or core drilling, or similar work;

G. "Contractor" means any Person who contracts to perform Construction as a general contractor or as a subcontractor;

H. "Court of competent jurisdiction" means any court properly having jurisdiction of the subject matter of an action;

I. "Gross Receipts" means the total amount of money or value or other consideration received by any Business conducted within the exterior boundaries of the Pueblo. Gross Receipts does not include any amount received as gross receipts or sales tax imposed by the State of New Mexico or its political subdivisions;

J. "Indian" means any member of a federally-recognized Indian tribe and any other Person recognized by federal law as an Indian for any purpose;

K. "Lease" means a written agreement with the Pueblo or a tribal member assignee of the Pueblo, as lessor, whereby the lessee is granted a right to possession of designated Pueblo lands, for a specified purpose and duration; or an assignment of Pueblo lands to a Pueblo member;

L. "Levy" means the involuntary taking or surrender of any property or rights to property belonging to a delinquent Taxpayer. "Levy" also means the exercise of the Pueblo's legislative authority in determining that a Tax shall be imposed;

M. "License" means a formal permission to carry out a Business authorized under this Code. A License shall be a revocable, nontransferable privilege to do a specified thing;

N. "Manufacture" means to combine or process components or materials to increase their value for Sale in the ordinary course of Business, but does not include Construction;

O. "Natural Resource" means any material in its native state that, when extracted, severed, or developed has economic value, including but not limited to water, sand and gravel, coal, oil and gas, and timber;

P. "Notice of Assessment" means a written demand for Taxes, including any interest, penalties and Administrative Costs authorized by this Code, provided to a Taxpayer;

Q. "Owner" means any Person who owns or enjoys an interest in lands, whether of the whole interest or less than whole, as an Owner, grantee, lessee, permittee, assignee, sublessee, licensee, transferee, joint venturer, shareholder, partner, member, or otherwise;

R. "Person" means 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;

S. “Personal Property” means everything that is subject to ownership and that is not Real Property.

T. “Property” means Real Property, Personal Property, licenses, franchises, patents, trademarks, and copyrights.

U. “Possessory Interest” means the interests and rights in Property obtained by a Lease or occupancy (whether authorized or not), including any and all improvements and additions thereon.

V. “Pueblo” means the Pueblo of Santa Clara, including any office or agency thereof that performs governmental functions of the Pueblo.

W. “Pueblo Lands” mean all lands and waters within the exterior boundaries of the Pueblo’s Spanish grant and of lands held by the United States in trust for the Pueblo, notwithstanding the issuance of any deed, patent, Lease or Right-of-Way.

X. “Real Property” means land, and generally whatever is built or growing on it.

Y. “Retailer” means a Person engaged in the Business of making Sales at retail.

Z. “Retail Sale” means any Sale of Services or Personal Property that is intended to be to the ultimate user or consumer thereof;

AA. “Sale” means any transaction whereby title or possession, or both, of Personal Property is transferred by any means whatsoever, for a consideration, or any transaction whereby services are rendered for consideration or are sold. Such consideration may be either in the form of a price in money, rights, or property, or by exchange or barter, and may be payable immediately, or in the future, or by installments.

BB. “Service” means any activity or conduct engaged in for consideration, which involves predominantly the performance of a Service as distinguished from selling or leasing Property.

CC. “Tax Administrator” means the Tax Administrator of the Pueblo.

DD. “Tax Commission” or “Commission” means the Santa Clara Tax Commission duly appointed by the Tribal Council to administer and enforce this Code.

EE. “Tax Office” means the Santa Clara Office of the Tax Administrator responsible for the day-to-day administration of this Code, under the supervision and control of the Tax Administrator.

FF. “Taxpayer” means a Person who pays a Tax, who is subject to and liable for a Tax, who is responsible for withholding and payment or for collection and payment of any Tax, or who engages in an activity or land use that is subject to Tax under this Code;

GG. “Tax-Sharing Agreement” means any agreement entered into between the Commission, on behalf of the Pueblo, and the New Mexico Taxation and Revenue Department, pursuant to New Mexico law and this Code, providing for the administration of gross receipts taxes imposed by the State and the Pueblo on Taxpayers situated on Pueblo Lands, the equalization of gross receipts tax rates applicable to such Taxpayers, the granting of mutual tax credits so as to avoid double taxation of such Taxpayers, and the sharing of gross receipts tax revenues derived from such Taxpayers, and for other purposes;

HH. “Tribal Council” means the Tribal Council of the Pueblo;

II. “Tribal Court” means the Pueblo of Santa Clara Tribal Court;

JJ. “Tribal Member” means any natural person who is enrolled or otherwise recognized by the Tribal Council as a member of the Pueblo;

KK. “Utility” means any governmentally regulated Business or Service that is engaged in regularly supplying some commodity or Service of public consequence; including, without limiting the foregoing, any Business or Service relating to cable television or other telecommunication lines, railroads, gas lines, telephone lines or cellular telephone service, telegraph lines, electrical transmission lines, sewer lines, and water lines;

Enacted by Res. No. 03-15, June 3, 2003; approved by Sec’y, July 1, 2003; amended by Res. No. 08-04, Feb. 19, 2008; amended by Res. No. 21-19, March 26, 2021; approved by Sec’y, May 17, 2021.

Sec. 15. Tax Revenues Generally; Budget; Disposition of Tax Revenues

A. Tax Revenues Generally. Except as otherwise provided in this Section, all Tax revenues collected through enforcement of this Code shall be deposited into the general fund of the Pueblo, and all such revenues shall be utilized or expended in such manner as is determined by the Tribal Council.

B. Budget for the Administration of the Tax Office. The Commission shall, by no later than the 30th day of September of each year, submit to the Tribal Council a proposed budget for the operations of the Tax Office and the Commission in administering this Code. The Tax Office shall be operated in accordance with the budget as approved by the Tribal Council.

C. Deposit of Tax Payments under Protest. All Taxes paid under protest shall be deposited in an interest-bearing account separate from the account(s) in which other Tax monies are deposited, and shall be maintained in such account until the protest is finally disposed of, as provided in Chapter 4 of this Title.

Enacted by Res. No. 03-15, June 3, 2003; approved by Sec’y, July 1, 2003.

Sec. 15.5 Severability

If any provision, Section, Chapter, or Title in this Code or application thereof to any situation or Person shall be held invalid or unenforceable by the final decision of any federal court having jurisdiction, or by the Tribal Court, such holding shall not invalidate or render unenforceable any other provision of this Code or its application to other situations or Persons.

Enacted by Res. No. 03-15, June 3, 2003; approved by Sec'y, July 1, 2003.

Sec. 15.6 Abatement

The Commission shall have the authority to abate any Tax imposed under this Code as to any Taxpayer in return for other consideration or payments in lieu of Taxes, or as to any class of Taxpayers, upon a finding that such abatement is in the best interest of the Pueblo.

Enacted by Res. No. 03-15, June 3, 2003; approved by Sec'y, July 1, 2003.

CHAPTER 16 - TAX COMMISSION AND TAX ADMINISTRATOR

Sec. 16.1 Tax Commission

A. Creation of Tax Commission. There is hereby created the Santa Clara Tax Commission, a governmental agency of the Pueblo, possessing all of the powers, duties, rights, and functions herein defined and as are now and may be hereinafter conferred by the laws of the Pueblo.

B. Composition of Tax Commission; Appointment Terms. The Tax Commission shall consist of no fewer than three and no more than five persons, each of whom shall be appointed by the Tribal Council to serve a four-year term. The Terms of Commissioners shall, to the extent feasible, be staggered so as to maintain continuity in the Commission. Notwithstanding the actual term of a Commissioner, each Commissioner shall serve until his or her successor is duly elected and qualified or until his or her removal, resignation, or death. Commissioners shall be eligible for reappointment without limitation.

C. Qualifications. The members of the Tax Commission shall have the following qualifications:

1. They shall be at least twenty-one (21) years of age, be of high moral character and integrity, and never have been convicted in a court of a crime involving dishonesty or moral turpitude, and be physically capable of carrying out their duties under this Section;
2. The Commissioners shall be Tribal Members who have sufficient education and experience to qualify them for overseeing the administration of this Code;
3. At least one Commissioner shall have prior accounting, banking, and/or tax administration experience; The Tribal Council shall have ultimate authority to determine whether a person is qualified to be a member of the Commission under the provisions of this Section.

D. Chairman; Records. The Commission shall annually select one of its members to serve as Chairman, and another member to serve as Vice Chairman. The Chairman, or the Vice Chairman in his or her place, shall preside at meetings, execute documents on behalf of the Commission, represent the Commission before the Tribal Council and in other official settings, with the Tax Administrator prepare the agenda for Commission meetings, and have such other responsibilities as the Commissioners may from time-to-time specify. Records of the Commission shall be maintained by the Tax Administrator.

E. Meetings; Quorum; Written Consents.

1. The business of the Tax Commission shall be conducted at meetings duly called upon written notice and at which a quorum shall be present. Meetings of the Tax Commission shall be called by the Chairman on his or her own initiative or upon the written request of at least two Commissioners. The Tax Commission shall keep minutes of each meeting.

2. Except as otherwise provided in this Code, a quorum shall consist of a majority of the Commissioners then serving on the Tax Commission; *provided* that, in no event shall a quorum be fewer than two Commissioners. Any substantive action of the Tax Commission must be taken by the affirmative vote of at least a majority of the Commissioners present at a duly called meeting. A quorum once attained at a meeting of the Tax Commission shall be deemed to continue until adjournment notwithstanding the voluntary withdrawal of enough Commissioners to leave less than a quorum. If less than a quorum is present at any meeting, a majority of the Commissioners present may adjourn the meeting. A Commissioner who is present at a meeting of the Tax Commission at which action on any matter is taken shall be presumed to have assented to the action taken unless his or her abstention or dissent is entered in the minutes of the meeting.

3. Any action that may be taken at a meeting of the Tax Commission may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Commissioners. The consent shall have the same effect as a unanimous vote.

4. Except as otherwise restricted by this Code, Commissioners may participate in a meeting of the Tax Commission by means of a conference telephone or similar communication equipment by which all persons participating in the meeting can hear each other at the same time, and participation by such means shall constitute attendance as if the Commissioner were present in person at the meeting.

5. The Tax Administrator shall attend all meetings of the Commission, together with such members of his staff as he deems appropriate, and shall cause a written record of the official actions taken at each meeting to have ready and, upon its approval by the Commission, to be maintained in the Tax Office.

6. Meetings of the Commission shall be open to the public unless the Commission shall determine, in its sole discretion, that a meeting should be closed.

F. Removal: Resignations and Vacancies.

1. Any Commissioner may be removed from the Tax Commission by a majority vote of the Tribal Council for good cause after a majority of the members of the Tax Commission recommends said removal, or if the Tribal Council, by a vote of three-fourths (3/4) of the Tribal Council members at a meeting at which a quorum is present, determines that it is in the best interest of the Pueblo. "Good cause" includes but is not limited to dereliction of duty, negligence, malfeasance in office, becoming ineligible for appointment to the Commission as set forth in this Code, or failure to attend two duly called Tax Commission meetings within a six (6) month period without justification. A Commissioner may resign at any time by giving written notice to the Commission and to the Secretary of the Tribal Council.

2. A resignation shall become effective at the time specified therein; the acceptance of such resignation shall not be necessary to make it effective. Any vacancy on the Tax Commission, howsoever caused, will be filled for the unexpired portion of that term by the Tribal Council according to the appointment procedures prescribed in this Code.

G. Disqualification of Commissioners.

1. A Commissioner shall disqualify himself or herself from making any Tax Commission decision in a proceeding in which he or she has a direct economic interest or when a Taxpayer involved in the proceeding is a relative of the Commissioner by marriage or blood in the first or second degree.

2. Any Taxpayer may seek to disqualify a Commissioner from hearing a proceeding involving that Taxpayer by filing a Petition for Disqualification with the Tax Commission requesting that such Commissioner be disqualified and stating the reasons for such disqualification. The Petition must identify itself as a Petition for Disqualification, declare the relief sought, state the reasons for such disqualification, and include a complete statement of the facts supporting the relief sought, together with any information or documents necessary to support such facts. In its discretion, the Tax Commission may hold a hearing on such Petition, in which case, the notice and hearing procedures set forth in this Code for appeals to the Tax Commission shall apply. The Tax Commission's denial of a Petition for Disqualification shall be final and subject to appeal only as provided for in this Code.

3. If a Commissioner should disqualify himself or herself, or if the Tax Commission grants a Petition for Disqualification of a Commissioner, the Tax Commission shall proceed to decide the matter at issue, and the disqualified Commissioner shall not participate or be counted for purposes of determining a quorum.

H. Compensation of the Tax Commission. The Commissioners may receive such salary or compensation as may be established in the budget approved by the Tribal Council.

I. Powers of the Tax Commission. The Tax Commission is charged with the administration and enforcement of this Code and, incidental thereto, shall have the power and authority to:

1. Supervise the Tax Administrator;
2. Administer oaths, conduct hearings to resolve appeals by Taxpayers from actions of the Tax Administrator, make decisions, judgments, and determinations permitted or required by this Code, and, by subpoena, compel the attendance and testimony of persons and the production of any books, records, and papers of any Taxpayer, and examine under oath, either orally or in writing, any Taxpayer or agents, or any other witness;
3. Promulgate such regulations and amendments thereto as maybe necessary and convenient for the administration of this Code;
4. Recommend to the Tribal Council proposed amendments to this Code;

5. Prepare and submit to the Tribal Council each year a proposed budget for the operation of the Tax Office and the Commission;

6. Approve and execute on behalf of the Pueblo any agreement between the Pueblo and the New Mexico Department of Taxation and Revenue or any other governmental entity authorized by New Mexico law and this Tax Code to govern the administration of taxes within Pueblo Lands;

7. Adjust the rate of the Gross Receipts Tax imposed by this Code, as necessitated by the terms of a Tax-Sharing Agreement that is in effect;

8. Adopt, by regulation, such tax credits or other administrative provisions as may be required for the implementation of or compliance with any Tax-Sharing Agreement that is in effect.

9. Exercise all other authority delegated by law or as may reasonably be necessary to the administration and enforcement of this Code.

Enacted by Res. No. 03-15, June 3, 2003; approved by Sec'y, July 1, 2003; amended by Res. No. 21-19, March 26, 2021; approved by Sec'y, May 17, 2021.

Sec. 16.2 Office of the Tax Administrator

A. Office of the Tax Administrator Created. There is hereby created the Office of the Tax Administrator, a governmental agency of the Pueblo, possessing all of the powers, duties, rights, and functions as are now and may be hereinafter conferred by this Code, the Tax Commission, or the Tribal Council. The Office of the Tax Administrator shall be responsible for the day-to-day administration of this Code, and shall carry out such duties as are conferred by this Code or are delegated by the Tax Commission or the Tribal Council. The Tax Commission, subject to limitations imposed by the budget approved by the Tribal Council, shall prescribe the internal organization and staff size of the Office of the Tax Administrator. The Office of the Tax Administrator will be located at the tribal offices of the Pueblo. The office will be open during normal working hours, or otherwise as posted, to accept payments, filings, reports, notices, and other communications or materials.

B. Tax Administrator. There is hereby created the position of Santa Clara Tax Administrator, who shall be an employee of the Pueblo and subject to the direction and supervision of the Tax Commission.

C. Manner of Appointment: Compensation. The Tax Commission shall hire the Tax Administrator and establish his or her salary, in accordance with the budget approved by the Tribal Council.

D. Qualifications. The Tax Administrator shall have the following qualifications:

1. He or she shall be at least twenty-one (21) years of age, be of high moral character and integrity, never have been convicted of a crime involving dishonesty or moral turpitude and be physically capable of carrying out his or her duties under this Section;

2. He or she must have sufficient experience to enable him or her to oversee tax practices and procedures and to make sound judgments;

3. He or she must possess a college degree, preferably in business management, accounting, banking, or law, or at least five (5) years of work experience in one or more of those fields.

E. Powers of the Tax Administrator. The Tax Administrator is charged with overseeing the day-to-day management of the Tax Office, including the following specific powers:

1. To assess, collect, and issue receipts for Taxes imposed or authorized by this Code;

2. To represent the Tax Office in hearings before the Tax Commission, Tribal Court, and any other court of competent jurisdiction, and present witnesses and evidence and bring any necessary actions for the enforcement of this Code and the collection of any assessed and unpaid Taxes;

3. To take any necessary actions to foreclose any lien imposed on any property for non-payment of Taxes;

4. To prepare and make available to Taxpayers and other persons standard forms and instructions thereto to carry out the intent of this Code and regulations promulgated thereunder;

5. To examine and investigate the places of business, equipment, facilities, Personal Property, books, records, papers, vouchers, accounts, documents, and financial statements of any Taxpayer, upon reasonable notice, or, failing to obtain the concurrence of the Taxpayer, at any time pursuant to a search warrant issued by the Tribal Court or other court of competent jurisdiction;

6. To administer oaths, conduct formal conferences, and, by subpoena, compel the attendance and testimony of persons and the production of any books, records, and papers of any Taxpayer, and examine under oath, either orally or in writing, any Taxpayer or agents, or any other witness;

7. To compromise and settle claims of legitimate controversy arising from the application of this Code by written agreement with a Taxpayer; *provided* that such agreement adequately protects the interests of the Pueblo and complies with the provisions of this Code;

8. To prepare for the Tax Commission proposed regulations and amendments thereto as may be necessary and convenient for the administration of this Code;

9. To promulgate and enforce written rulings and orders as may be necessary and convenient to enforce this Code;

10. To provide to Taxpayers, upon request, copies of regulations, rulings, and orders affecting the Tax liability of such Taxpayers;

11. To recommend to the Tax Commission proposed amendments to this Code;

12. In accordance with the directives of the Tax Commission and subject to the budget approved by the Tribal Council, to hire, train, supervise and discipline, as necessary, the staff of the Tax Office, and to oversee the management of that Office;

13. To negotiate agreements with the New Mexico Department of Taxation and Revenue or any other governmental entity authorized by New Mexico law and this Tax Code to govern the administration of taxes on Pueblo Lands and present to the Commission for approval any form of agreement authorized by New Mexico law and this Code;

14. To exercise all other authority as conferred by the Tax Commission or as may reasonably be necessary to the administration and enforcement of this Code.

In carrying out the foregoing powers, the Tax Administrator may act personally or through staff or legal counsel employed or retained by the Tax Office.

Enacted by Res. No. 03-15, June 3, 2003; approved by Sec'y, July 1, 2003.

Sec. 16.3 Bonds

The Tax Administrator and selected employees of the Tax Office shall be bonded in the performance of their duties and safekeeping of all funds and documents entrusted to their care, in an amount set by the Tax Commission.

Enacted by Res. No. 03-15, June 3, 2003; approved by Sec'y, July 1, 2003.

Sec. 16.4 Bookkeeping and Records

A. Bookkeeping. The Tax Administrator shall establish and keep such financial records and books as may be necessary to account for all Taxes and other monies received using generally accepted accounting standards. Separate books will be maintained for each type of Tax imposed.

B. Taxpayer Records. The Tax Administrator shall keep and maintain accurate and complete records which reflect all taxes, penalties, interest, and Administrative Costs levied, due, and paid; assessments, notices, and all other official transactions, communications, or actions by the Tax Administrator and Tax Commission and responses, if any, from Taxpayers. Such records shall be subject to audit at any time, upon the direction of the Tax Administrator, Tax Commission, or the Tribal Council. The Tax Administrator shall retain all such records for at least seven (7) years.

Enacted by Res. No. 03-15, June 3, 2003; approved by Sec'y, July 1, 2003; amended by Res. No. 21-19, March 26, 2021; approved by Sec'y, May 17, 2021.

Sec. 16.5 Promulgation of Regulations

A. Notice. The Tax Commission shall publish proposed regulations in order to provide interested parties an opportunity to comment. The notice will invite written comments and give a deadline for their submission not less than thirty (30) days after the first publication of notice. The Tax Commission may, but is not obligated to, hold a public hearing on any proposed regulations; and if so shall make prior public announcement of the date, time and place of any such hearing.

B. Publication. Publication of a notice requires publication in the legal section of a newspaper of local circulation at least once a week for three (3) consecutive weeks and further requires a posting of the notice in at east three (3) conspicuous public places on the Reservation. The notice shall identify or otherwise describe the content of the proposed new regulations.

C. Effective Date. A regulation will become effective upon its approval by resolution of the Tax Commission on the date specified in the resolution.

D. Promulgation. A copy of all regulations adopted will be filed and made available for public inspection at the Office of the Tax Administrator, and the Tax Administrator shall endeavor to provide copies of relevant regulations to Taxpayers affected by them, or their representatives.

Enacted by Res. No. 03-15, June 3, 2003; approved by Sec'y, July 1, 2003.

Sec. 16.6 Rulings; Instructions; and Orders

A. Rulings. The Tax Administrator is authorized to issue rulings, which are written statements of limited application to one or a small number of Taxpayers, interpreting this Code and the regulations of the Commission. Rulings are ordinarily issued in response to a request by a Taxpayer for clarification of the consequences of a specified set of circumstances. A ruling shall be reviewed by the Pueblo's General Counsel before being issued. The Tax Administrator shall maintain a duplicate official set of current and superseded rulings. The extent to which a ruling will have retroactive effect shall be stated and, if no such statement is made, it will be applied prospectively only.

B. Instructions. The Tax Administrator is authorized to issue instructions, which are written statements or directives of the Tax Administrator not dealing with the merits of any Tax but otherwise aiding the reporting and payment of the Taxes and the accomplishment of the duties of the Tax Administrator hereunder.

C. Orders. The Tax Administrator and Tax Commission are authorized to issue written statements implementing a decision after a formal conference or hearing.

Enacted by Res. No. 03-15, June 3, 2003; approved by Sec'y, July 1, 2003.

Sec. 16.7 Investigative Authority

A. Subpoenas. The Tax Administrator and Tax Commission are authorized to issue subpoenas to allow them or their authorized representative to examine equipment, records, books, information, or other evidence; to require the production of any pertinent records, books, information, or other evidence; and to require the presence and testimony under oath of any Person concerning the subject matter of any tax inquiry, which subpoenas may be executed anywhere within the Pueblo Lands.

B. Form of Subpoenas. A subpoena shall state with reasonable certainty the nature of the evidence required to be produced, the time and place of the conference or hearing at which the Person to whom the subpoena is directed is required to attend and give testimony, the nature of the inquiry or investigation, and the consequences of failure to obey the subpoena, and shall bear the signature of either the Tax Administrator or the Chairman of the Tax Commission. Service of a subpoena shall be made by delivering or mailing, certified/return receipt requested, a copy to the Person named therein; service may be made by delivering or mailing, certified/return receipt requested, a copy to the individual last designated by the Taxpayer to receive notice at the address shown on the designation. No subpoena shall be made returnable less than ten (10) days from the date of service. Proof of service shall be made by filing with the Office of the Tax Administrator a copy of the notice along with the date, manner of service, and name of the Person served, certified by the Person who made service.

C. Failure to Comply with a Subpoena. If any Person neglects or refuses to comply with the directives of a properly served subpoena, the Tax Administrator or Tax Commission may invoke the aid of the Tribal Court to enforcement the subpoena. As it deems appropriate, the Tribal Court shall issue its order requiring the Person to appear and testify or produce books or records and may, upon failure of the Person to comply with the order, cite the Person for contempt and impose appropriate sanctions.

Enacted by Res. No. 03-15, June 3, 2003; approved by Sec'y, July 1, 2003; amended by Res. No. 21-19, March 26, 2021; approved by Sec'y, May 17, 2021.

Sec. 16.7A Cooperation with Tax Administrator

Directors and managers of all Pueblo programs, agencies, businesses, boards, commissions, authorities and Pueblo-owned entities shall promptly provide the Tax Administrator the names and contact information for all vendors, contractors, and others who sell goods or services to the Pueblo program, agency, business, board, commission, authority, or Pueblo-owned entity, and sufficient information about the transaction to enable the Tax Administrator to determine whether a tax under this Code applies to the transaction.

Enacted by Res. No. 21-19, March 26, 2021; approved by Sec'y, May 17, 2021.

Sec. 16.8 Sovereign Immunity

The Tribal Council hereby waives the sovereign immunity of the Tax Administrator and Tax Commission for the express, sole, and limited purpose of allowing review of actions and decisions of the Tax Administrator by the Tax Commission and of allowing review of actions and decisions of the Tax Commission by the Tribal Court as provided for in this Code; *provided* that, any such appeals must be timely and properly filed; and *provided further*, that such waiver is made only to the extent necessary for the determination of rights and obligations under this

Code and any regulations promulgated hereunder and does not waive immunity with respect to any suit against the Pueblo, the Commission, the Tax Administrator or any contractor or employee of the Tax Office for monetary damages. This waiver is strictly limited and specifically does not waive the sovereign immunity of the Tribal Council, Pueblo, or of any other commission, agency, officer, employee, or agent thereof.

Enacted by Res. No. 03-15, June 3, 2003; approved by Sec'y, July 1, 2003.

Sec. 16.9 Confidentiality

A. All records related to Taxpayers shall be confidential and not open to public inspection. No Commissioner or former Commissioner, or employee or former employee of the Tax Office shall disclose to any Person any information contained in the return of any Taxpayer made pursuant to this Code, or any other information about any Taxpayer acquired as a result of his or her employment by the Pueblo except:

1. To the Taxpayer or to the Taxpayer's authorized representative upon the Taxpayer's written request;

2. To an employee of the Pueblo or a member of the Tribal Council authorized by the Tax Commission 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 authorized representatives of an Indian nation, tribe, or band, pursuant to the terms of a written reciprocal agreement entered into with the Indian nation, tribe, or band for the exchange of such information for tax purposes only; *provided* that the Indian nation, tribe, or band has enacted a confidentiality law similar to this Section;

4. To an authorized representative of the State of New Mexico for tax purposes only; *provided* that the state has entered into a written reciprocal agreement with the Pueblo for the exchange of such information and that the state has enacted a confidentiality law similar to this Section;

5. To a federal agency pursuant to the terms of a written reciprocal agreement entered into with the federal government for the exchange of such information;

6. To the Bureau of Indian Affairs for use in audits of rentals, royalties, fees, and other payments due the Pueblo under land Sale, land Lease, mineral or natural resource development, or other land use contracts;

7. To a court of the Pueblo or other court of competent jurisdiction:

a. in response to an order thereof in an action relating to Taxes or in which a Taxpayer has placed his or her own liability for Taxes at issue and to which the Tax Administrator or Tax Commission is a party; or

b. in any action in which the Tax Administrator is attempting to enforce

this Code or to collect a Tax;

8. In recording, executing upon, or releasing Tax Liens on the property of a Taxpayer or collecting Taxes by Levy upon the property or rights to property of a Taxpayer;

9. For statistical releases, in such a manner that the information revealed is not identified as applicable to any individual Taxpayer;

10. To a purchaser of a Business or assignee of a Possessor) or Non-Possessory Interest, the amount and basis of any unpaid assessment of Tax for which the purchaser's seller or assignor is liable;

11. Upon written request, to a child support enforcement bureau of any jurisdiction, the last known address with date of all names certified to the Tax Administrator as being absent parents of children receiving public financial assistance; *provided* that such child support enforcement bureau agrees in writing that its personnel will use such information only for the purpose of enforcing the support liability of such absent parents and shall not use the information or disclose it for any other purpose; and

12. The Tax Administrator may answer all inquiries concerning whether a Person is or is not a registered Taxpayer.

B. The Tax Administrator may enforce Section 16.9 by filing an action in the Tribal Court. The Tribal Court may grant injunctive relief and/or impose a civil fine of no more than one thousand dollars (\$1,000) on any person who violates the confidentiality provisions of Section 16.9.

Enacted by Res. No. 03-15, June 3, 2003; approved by Sec'y, July 1, 2003; amended by Res. No. 21-19, March 26, 2021; approved by Sec'y, May 17, 2021.