



TRIBAL COUNCIL RESOLUTION No. 2011- 27

Amending Titles I, II and III of the Pueblo of Jemez Tribal Code

At a duly called meeting of the Tribal Council of the Pueblo of Jemez, the following resolution was passed:

WHEREAS, the Pueblo of Jemez is a federally recognized Indian Tribe with inherent powers of self-government and pursuant to its tribal sovereignty has the powers to legislate, enact and amend tribal laws; and

WHEREAS, the Pueblo of Jemez Tribal Council adopted by Resolution 1995-17, the Jemez Pueblo Tribal Code subject to future amendments as provided for in the Code; and

WHEREAS, the Jemez Pueblo Law Enforcement Services, Tribal Courts and the Pueblo's legal counsel have determined that Titles I, II and III of the Pueblo of Jemez Tribal Code are in need of amendments and have recommended revisions to Titles I, II and III; and

WHEREAS, the Tribal Council has determined that these amendments will continue to strengthen our tribal sovereignty, contribute to the judicial needs of the Pueblo and provide for the orderly administration of tribal justice and assure the maintenance of law and order on the Pueblo of Jemez.

NOW THEREFORE BE IT RESOLVED that the proposed amendments to Titles I, II and III of the Pueblo of Jemez Tribal Code, are hereby approved and adopted as laws of the Pueblo and **shall become effective September 1, 2011**, and

BE IT FURTHER RESOLVED that the newly adopted amendments to Titles I, II and III of the Pueblo of Jemez Tribal Code supersedes all prior code provisions and shall be incorporated into the Pueblo of Jemez Tribal Code.

Office of the Governor

4471 Highway 4, Box 100 • Jemez Pueblo • New Mexico • 87024
(575) 834-7359 • Fax (575) 834-7331

TRIBAL COUNCIL RESOLUTION No. 2011- 27
Amending Titles I, II and III of the Pueblo of Jemez Tribal Code

CERTIFICATION

I, the undersigned, as the Governor of the Pueblo of Jemez hereby certify that at a duly called meeting of the Tribal Council held on the 21st day of July, 2011, the foregoing resolution was passed, a quorum being present and that 10 voted for with 0 opposed and 0 abstained.


Michael Toledo Jr., Governor

Attest: 
^{1st} Lieutenant Governor


TRIBAL COUNCIL:


Joe Cajero

Roger Madalena


Paul S. Chinana


Jose L. Pecos


Raymond Gachupin


Arthur Sandia


Frank Loretto

Jose Toledo

J. Leonard Loretto

David M. Toledo

Raymond Loretto


Paul Tosa


Jose E. Magdalena


Vincent A. Toya, Sr.


Joshua Madalena

Office of the Governor

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RESOLUTION NO. 95-13

- WHEREAS, The Pueblo of Jemez, a federally recognized Indian Tribe, has the powers of self-government by reason of its original tribal sovereignty, and
- WHEREAS, by virtue of the Pueblo's original tribal sovereignty, the Pueblo of Jemez Tribal Council possesses the power to exercise legislative powers over the activities of all persons, Indian and Non-Indian alike, to protect tribal interests within the lands of Jemez Pueblo, and
- WHEREAS, the Pueblo of Jemez Tribal Council is exercising the power to legislate and enact civil and criminal tribal laws to control the conduct and activities of tribal members and non-tribal members, and
- WHEREAS, the Pueblo of Jemez Tribal Council has considered the benefits, impacts, disadvantages, and advantages to enacting the Pueblo of Jemez Tribal Law & Order Code which also includes "Exclusion & Removal of Persons", "Wildlife Conservation Code and Hunting, Fishing, & Trapping Regulations", "Repossession of Property", "Traffic Code", and "Real Estate",
- WHEREAS, the Tribal Council proclaims that adopting the Pueblo of Jemez Tribal Law & Order Code along with its specific titles as our tribal laws further strengthens our Tribal Sovereignty, protects our land and resources of our Pueblo for ourselves and our children, contributes to the judicial needs of the Pueblo and provides for the orderly administration of tribal justice, and assures the maintenance of law and order on the Pueblo of Jemez, and
- WHEREAS, adopting the Pueblo of Jemez Tribal Law & Order Code with its Titles does not alter, affect, or change the traditional procedures and sanctions used in our Tribal Court and neither is the Code intended to limit the powers of the Governors.
- NOW THEREFORE BE IT RESOLVED that the Pueblo of Jemez Law & Order Code with comprised sections from Title I through Title VIII is hereby adopted as the tribal laws of the Pueblo of Jemez, subject to future amendments as provided in the Code, and
- BE IT FURTHER RESOLVED that the Pueblo of Jemez Law & Order Code with its Titles will become effective on August 23, 1995.

Office Of The Governors

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C E R T I F I C A T I O N

I, the undersigned as Governor of the Pueblo of Jemez do hereby certify that the foregoing resolution was passed at a duly called meeting of the Tribal Council on the 23rd day of February, 1995, in which 6 voted for and 0 voted against.

Paul S. Chinana
Paul S. Chinana, Governor
Pueblo of Jemez

ATTEST:

Vincent A. Lopez

Jose Talado
Councilman
Gerardo Pacheco
Councilman
Joe V. Lopez
Councilman

Councilman

Paul Lopez
Councilman
Paul Lopez
Councilman
Jose L. Lopez
Councilman

Councilman

**PUEBLO OF JEMEZ CRIMINAL CODE
TITLE III
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**TITLE III
PUEBLO OF JEMEZ CRIMINAL CODE**

CHAPTER 1 INTRODUCTORY PROVISIONS

SECTION 3-1-1 DEFINITIONS

The terms used in this Title are defined as follows:

- a. Knowingly - with knowledge or consciously.
- b. Malice - or any form of this word means the intentional doing of a wrongful act without just cause or excuse with an intent to inflict injury.
- c. Neglect, Negligence - or any form of these words, means an absence of care or attention in the doing or omission of a given act or the doing of something that a reasonable man would not do.
- d. Offense - an act forbidden by this Code or by an ordinance the Pueblo of Jemez may enact.
- e. Willfully - intentionally, not by accident or involuntary.
- f. Reckless – characterized by the creation of a substantial and unjustifiable risk of harm to others and by a conscious disregard for or indifference to that risk.

SECTION 3-1-2 BURDEN OF PROOF AND PRESUMPTION OF INNOCENCE

A person who comes before the Tribal Court as a Defendant for allegedly committing criminal offense(s) prohibited by this Code is presumed to be innocent. The Pueblo of Jemez has the burden of proving beyond a reasonable doubt that the Defendant is guilty of the crime or crimes charged. The Pueblo must prove the Defendant acted intentionally when he committed the crime. Whether the Defendant acted intentionally, may be inferred from all of the surrounding circumstances, such as the manner in which he acts, the means used, his or her conduct and any statements made by him or her.

SECTION 3-1-3 CRIMINAL STATUTE OF LIMITATIONS

Unless the Tribal Court decides (based upon the nature of the case) that the complaint shall not be dismissed, any criminal charge against Defendant, pending for more than six (6) months from the filing of the complaint without commencement of a trial by the Tribal Court shall be dismissed, unless the Court finds that the delay(s) in bringing the case within six (6) months was caused by the Defendant.

SECTION 3-1-4 PROPERTY SEIZURE

All material including but not limited to motor vehicles and firearms, seized or obtained for evidentiary purposes, by the Jemez Pueblo Police Department are subject to impoundment, forfeiture, auction, or destruction based on the discretion and/or decision of the Jemez Tribal Court. Disposition of the seized property shall be disposed of in accordance with Rule 8 of the Rules of Criminal Procedure.

CHAPTER 2 GENERAL CRIMES AND OFFENSES

A. OFFENSES AGAINST PROPERTY

SECTION 3-2-1 ARSON

1. Arson consists of maliciously or willfully starting a fire or causing an explosion with the purpose of destroying or damaging any building, occupied structure or property of another, or bridge, utility line, fence or sign; or with the purpose of destroying or damaging any property, whether the person's own or another's, to collect insurance for such loss.
2. If the property destroyed by arson has a value of less than Five Hundred Dollars (\$500.00), the person shall be sentenced to confinement for a period not to exceed ninety (90) days or fined not to exceed Five Hundred Dollars (\$500.00) or both. The Court may in its discretion order that restitution be made.
3. If the property destroyed by arson has a value of more than Five Hundred Dollars (\$500.00) the person shall be sentenced to confinement for a period not to exceed three hundred sixty five (365) days or fined not to exceed One Thousand Dollars (\$1,000.00) or both. The Court may in its discretion order that restitution be made.

SECTION 3-2-2 RECKLESS BURNING

1. A person is guilty of reckless burning if he/she:
 - a. recklessly starts a fire or causes an explosion which endangers human life, or damages property of another; or
 - b. having started a fire whether recklessly or not, and knowing that it is spreading and will endanger the life or property of another, fails to either take reasonable measures to put out or control the fire or fails to give a prompt fire alarm.
2. If the property destroyed by reckless burning has a value of less than Five Hundred Dollars (\$500.00), the person shall be sentenced to confinement for a period not to exceed ninety (90) days or fined not to exceed Five Hundred Dollars (\$500.00) or both. The Court may in its discretion order that restitution be made.
3. If the property destroyed by reckless burning has a value of more than Five Hundred Dollars (\$500.00) the person shall be sentenced to confinement for a period not to exceed three

hundred sixty four (364) days or fined not to exceed One Thousand Dollars (\$1,000.00) or both. The Court may in its discretion order that restitution be made.

SECTION 3-2-3 CRIMINAL DAMAGE TO PROPERTY

1. Criminal damage to property consists of intentionally damaging any real or personal property of another without the consent of the owner of the property.
2. When damage to the property is less than Five Hundred Dollars (\$500.00), the person shall be sentenced to confinement for a period not to exceed ninety (90) days or fined not to exceed Five Hundred Dollars (\$500.00) or both. The Court may in its discretion order that restitution be made.
3. When damage to the property is more than Five Hundred Dollars (\$500.00) the person shall be sentenced to confinement for a period not to exceed three hundred sixty four (364) days or fined not to exceed One Thousand Dollars (\$1,000.00) or both. The Court may in its discretion order that restitution be made.

SECTION 3-2-4 DESECRATION OF RELIGIOUS OR SACRED SITES

1. Desecration of a religious or sacred site consists of intentionally defacing, destroying, taking or otherwise physically mistreating a religious or sacred site belonging to any of the religious societies or to the Pueblo.
2. Any person found guilty or entering a plea of guilty to desecration of religious or sacred sites shall be sentenced to confinement for a period not to exceed three hundred sixty four (364) days in jail or assessed a fine not to exceed One Thousand Dollars (\$1,000.00) or both.
3. The Court may impose additional penalties as it deems appropriate in accordance with traditional customary law or in its discretion refer the matter for resolution through the Pueblo's traditional process.

SECTION 3-2-5 CRIMINAL TRESPASS

1. Any person who shall enter or secretly remain in any building or occupied structure, or separately secured or occupied portion thereof, knowing that he is not privileged to do so, whether by day or night, shall be guilty of an offense under this section.
2. Criminal trespass consists of knowingly entering or remaining upon property of another without possessing written permission from the owner or person in control of the property, or knowing that such consent to enter or remain on the property was denied or withdrawn by the owner or occupant thereof.
3. Any person who enters upon the property of another without prior permission and injures, damages or destroys any part of the realty of its improvements, including buildings, structures, trees, shrubs, or other natural features is guilty of a misdemeanor, and he shall be liable to the

owner, lessee or person in lawful possession for civil damages in an amount equal to double the value of the damage to the property injured or destroyed.

4. Whoever knowingly removes, tampers with or destroys any "no trespass" sign is guilty of a misdemeanor; and shall be subject to imprisonment for a definite term less than one (1) year or a fine not more than One Thousand Dollars (\$1,000.00) or both.

5. Upon conviction of such offense the Defendant shall be sentenced to jail for a period not to exceed ninety (90) days or a fine not to exceed Five Hundred Dollars (\$500.00) or both.

B. THEFT AND RELATED OFFENSES

SECTION 3-2-6 ROBBERY

1. Robbery consists of the theft of anything of value from the person of another or from the immediate control of another, by use or threatened use of force or violence; or purposely puts him/her in fear of immediate bodily injury.

2. Any person found guilty or entering a plea of guilty to the charge shall be sentenced to jail not to exceed one (1) year or assessed a fine of not more than One Thousand Dollars (\$1,000.00) or both.

SECTION 3-2-7 BURGLARY/AGGRAVATED BURGLARY

1. BURGLARY

a. Burglary consists of the unauthorized entry of any vehicle, dwelling or other structure, movable or immovable, with the intent to commit any crime or theft therein. Any person found guilty or entering a plea of guilty to the charge shall be sentenced to jail not to exceed one (1) year or assessed a fine of not more than One Thousand Dollars (\$1,000.00) or both.

2. AGGRAVATED BURGLARY

a. Aggravated burglary consists of the unauthorized entry of any vehicle, dwelling, or other structure, movable or immovable, occupied or unoccupied with intent to commit any crime or theft therein and the person either:

- i. is armed with a deadly weapon;
- ii. after entering, arms himself with a deadly weapon;
- iii. commits a battery upon any person while in such place, or in entering or leaving such place.

b. Any person found guilty or entering a plea of guilty shall be sentenced to jail not to exceed one (1) year or assessed a fine of not less than Three Thousand Dollars (\$3,000.00) but not to exceed Five Thousand Dollars (\$5,000.00).

SECTION 3-2-8 CARJACKING; ATTEMPTED CARJACKING; ARMED CARJACKING

1. Whoever shall knowingly or recklessly by force or violence, whether against resistance or by sudden or stealthy seizure or snatching, or by putting in fear, or attempting to do so, or by any other means shall take a motor vehicle from another person's immediate actual possession shall be guilty of carjacking.
2. Whoever commits the offense of carjacking while armed with or having readily available any pistol or other firearm or imitation thereof or other dangerous or deadly weapon, any object capable of inflicting death or serious bodily harm, shall be guilty of armed carjacking.
3. Any person found guilty or entering a plea of guilty to the charge shall be sentenced to jail not to exceed one (1) year or assessed a fine of not less than Three Thousand Dollars (\$3,000.00) but no more than Five thousand Dollars (\$5,000.00) or both.

SECTION 3-2-9 LARCENY

1. Larceny consists of any person who shall take away the property of another without the consent of the owner, with the intent to deprive the owner permanently of the property.
2. If the property taken has a value of less than One Hundred Dollars (\$100.00) the person shall be sentenced to confinement for a period not to exceed ninety (90) days or a fine not to exceed Five Hundred Dollars (\$500.00) or both. The court may in its discretion order that restitution be made.
3. If the property taken has a value of more than One Hundred Dollars (\$100.00), the person found guilty of larceny shall be sentenced to jail not to exceed one (1) year or assessed a fine not to exceed One Thousand Dollars (\$1,000.00) or both. The court may in its discretion order that restitution be made.

SECTION 3-2-10 SHOPLIFTING

1. Shoplifting consists of any one or combination of the following acts:
 - a. willfully taking possession and concealing any merchandise with the intention of converting it without paying for it.
 - b. willfully altering any label, price tag or marking upon any merchandise with the intention of depriving the merchant of all or some part of the value of it.
 - c. willfully transferring any merchandise from the container in or on which it is displayed to any other container with the intention of depriving the merchant of all or some part of the value of it.

2. Any person found guilty or who enters a plea of guilty shall be sentenced to jail not to exceed ninety (90) days or assessed a fine not to exceed Five Hundred Dollars (\$500.00) or both. The court may in its discretion order that restitution be made.

SECTION 3-2-11 RECEIVING STOLEN PROPERTY

1. A person is guilty of receiving stolen property if he/she receives, retains or disposes of the property of another knowing that it has been stolen, or believing that it has been stolen, or who conceals, such property from the owner with a purpose to deprive the owner thereof.

2. Any person found guilty of the charge shall be sentenced to jail for a period not to exceed ninety (90) days or to a fine not to exceed Five Hundred Dollars (\$500.00) or both.

SECTION 3-2-12 THEFT OF SERVICES

1. Theft of services consists of any person obtaining any service, petroleum product, food, entertainment or accommodations without paying for the service and with the intent to cheat or defraud the owner of the monetary value or person supplying such service, petroleum product, food, entertainment or accommodations.

2. Any person found guilty of the charge or who enters a plea of guilty to the charge shall be sentenced to jail not to exceed one (1) year or assessed a fine of not more than One Thousand Dollars (\$1,000.00) or both.

SECTION 3-2-13 EMBEZZLEMENT

1. Any person who has been entrusted with having lawful custody of property not his own, converts the property to his own use with fraudulent intent to deprive the owner thereof shall be guilty of the offense of embezzlement. Each separate incident of embezzlement constitutes a separate and distinct offense.

2. As used in this section, embezzlement shall include (a) the spending of a minor's funds by a parent or guardian for other than the purpose for which the funds were placed in the custody of the parents or guardian or (b) the unauthorized use of funds, property or other resources of an elder or the failure to use the funds, property or other resources of an elder to the elder's benefit or according to the elder's desire.

3. Any person found guilty of the offense or who enters a plea of guilty shall be sentenced to jail for a period not to exceed one (1) year or to a fine not to exceed One Thousand Dollars (\$1,000.00) or both. The court may in its discretion order that restitution be made.

SECTION 3-2-14 FRAUD

1. Fraud consists of the intentional misappropriation or taking of anything of value which belongs to another by means of fraudulent conduct and practices or misrepresentations.

2. Any person found guilty or entering a plea of guilty to the charge shall be sentenced to jail not to exceed ninety (90) days or assessed a fine of not less of Five Hundred Dollars (\$500.00) or both.

SECTION 3-2-15 FRAUDULENT USE OF A CREDIT CARD

1. A person is guilty of the fraudulent use of a credit card if he uses a credit card for the purpose of obtaining property or services with knowledge that:

- a. the card is stolen; or
- b. the card has been revoked, canceled or is invalid; or
- c. the use of the credit card is unauthorized by either the issuer or the person to whom the card has been issued.

2. "Credit Card" means an instrument or device, whether known as a credit card, debit card, charge card, check card, or by any other name; issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services, or anything else of value, either on credit or in consideration of undertaking or guarantees by the issuer of the payment of a check drawn by the cardholder.

3. Any person found guilty or entering a plea of guilty to the charge shall be sentenced to jail of up to one (1) year or assessed a fine of not less than One Thousand Dollars (\$1,000.00).

SECTION 3-2-16 FORGERY

1. Forgery consists of a person who shall, with the intent to defraud another, falsely sign, executes, alters, and transmits as genuine any written instrument.

2. A person found guilty of this charge or who enters a plea of guilty shall be sentenced to jail for a period not to exceed one (1) year or assessed a fine of not less than One Thousand Dollars (\$1,000.00) or both.

SECTION 3-2-17 ISSUING A WORTHLESS CHECK

1. Issuing a worthless check consists of writing or passing a check for the purpose of obtaining any money, property or other thing of value or paying for any service, knowing or believing that the check will not be honored by any bank or other depository.

2. Any person found guilty or entering a plea of guilty to the charge shall be sentenced to a jail term not to exceed one (1) year or assessed a fine of not more than One Thousand Dollars (\$1,000.00) or both. The court in its discretion may order that restitution be made.

C. CRIMES AGAINST PERSONS

SECTION 3-2-18 ASSAULT/AGGRAVATED ASSAULT

1. ASSAULT

Assault consists of either:

- a. An attempt to commit a battery upon the person of another by force or violence;
- b. Any unlawful act, threat, or menacing conduct which causes another person to reasonably believe that he/she is in danger of receiving an immediate battery;
- c. The use of insulting language toward another injuring his/her honor, delicacy or reputation shall be deemed guilty of an assault.
- d. Any person found guilty or entering a plea of guilty to the charge shall be sentenced to a jail term not to exceed ninety (90) days or assessed a fine of not more than Five Hundred Dollars (\$500.00) or both.

2. AGGRAVATED ASSAULT

Aggravated Assault consists of either:

- a. Any person who intentionally or knowingly uses a deadly weapon to put another in fear of imminent serious bodily injury.
- b. Any person found guilty or entering a plea of guilty to the charge shall be sentenced to a jail term not to exceed one (1) year or assessed a fine of not more than One Thousand Dollars (\$1,000.00) or both.

SECTION 3-2-19 BATTERY/AGGRAVATED BATTERY

1. BATTERY

Battery consists of either:

- a. Any person who shall unlawfully and intentionally strike, touch or apply force to a person of another in a rude, insolent, threatening, or angry manner.
- b. Any person found guilty or entering a plea of guilty to the charge shall be sentenced to a jail term not to exceed ninety (90) days or assessed a fine of not more than Five Hundred Dollars (\$500.00) or both.

2. AGGRAVATED BATTERY

Aggravated battery consists of either:

a. Any person who shall unlawfully or intentionally inflict any injury to another person causing great bodily harm or does so with a deadly weapon or does so in any manner whereby great bodily harm or death can be inflicted shall be guilty of aggravated battery.

b. Any person found guilty or entering a plea of guilty to the charge shall be sentenced to a jail term not to exceed one (1) year or assessed a fine not to exceed One Thousand Dollars (\$1,000.00) or both.

SECTION 3-2-20 FALSE IMPRISONMENT

1. False Imprisonment consists of any person who shall willfully take away or detain another person against their will knowing he/she had no lawful authority to do so or without consent of a parent, guardian or other persons having legal custody or charge of that person.

2. Any person found guilty or entering a plea of guilty to the charge shall be sentenced to a jail term not to exceed one (1) year or assessed a fine of not more than One Thousand Dollars (\$1,000.00) or both.

SECTION 3-2-21 CRIMINAL SEXUAL CONTACT

1. Criminal sexual contact is the unlawful and intentional touching of or application of force, without consent, to the intimate parts of another, or intentionally causing another to touch one's intimate parts. For the purposes of this section, "intimate parts" means the primary genital area, groin, buttocks, anus or breasts.

2. Any person found guilty or entering a plea of guilty to the charge shall be sentenced to a jail term not to exceed six (6) months or assessed a fine of not more than One Thousand Dollars (\$1,000.00) or both.

3. In addition, any person found guilty or pleads guilty to this charge shall be ordered to register as a "sex offender" in the Pueblo of Jemez Sex Offender Registration Program and comply with the requirements therein. Failure to comply with the court's order shall constitute non-compliance with the Court orders and subject the violator to penalties as specified in Section 8.01 of the Pueblo of Jemez's Sex Offender Registration Code.

SECTION 3-2-22 AGGRAVATED CRIMINAL SEXUAL CONTACT

1. Aggravated criminal sexual contact consists of all criminal sexual contact perpetrated:

a. by the use of force or coercion that results in personal injury to the victim;

b. by the use of force or coercion when the perpetrator is aided or abetted by one or more persons; or

c. when the perpetrator is armed with a deadly weapon.

2. Whoever is found guilty or pleads guilty to aggravated criminal sexual contact shall be sentenced to a jail term not to exceed one (1) year or assessed a fine not to exceed Two Thousand Dollars (\$2,000.00) or both.

3. In addition, any person found guilty or pleads guilty to this charge shall be ordered to register as a "sex offender" in the Pueblo of Jemez Sex Offender Registration Program and comply with the requirements therein. Failure to comply with the court's order shall constitute non-compliance with the court orders and subject the violator to penalties as specified in Section 8.01 of the Pueblo of Jemez's Sex Offender Registration Code.

SECTION 3-2-23 AGGRAVATED SEXUAL ABUSE

1. Aggravated sexual abuse consists of any person who by force or threat knowingly causes another person to engage in a sexual act by using force against that person, or by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury or kidnapping.

2. Any person found guilty or entering a plea of guilty to the charge will be sentenced to jail not to exceed one (1) year or assessed a fine of not more than One Thousand Dollars (\$1,000.00) or both.

3. In addition, any person found guilty or pleads guilty to this charge shall be ordered to register as a "sex offender" in the Pueblo of Jemez Sex Offender Registration Program and comply with the requirements therein. Failure to comply with the court's order shall constitute non-compliance with the court orders and subject the violator to penalties as specified in Section 8.01 of the Pueblo of Jemez's Sex Offender Registration Code.

SECTION 3-2-24 HARRASSMENT

1. Harassment consists of knowingly pursuing a pattern of conduct that is intended to annoy, seriously alarm or terrorize another person and that serves no lawful purpose. The conduct must be such that it would cause a reasonable person to suffer substantial emotional distress.

2. Any person found guilty or pleading guilty to the offense shall be sentenced to a jail term not to exceed ninety (90) days or assessed a fine not to exceed Five Hundred Dollars (\$500.00) or both.

SECTION 3-2-25 CRIMINAL SEXUAL PENETRATION

1. Criminal sexual penetration is the unlawful and intentional causing of a person to engage in sexual intercourse, cunnilingus, fellatio or anal intercourse or the causing of penetration, to any extent and with any object, of the genital or anal openings of another, whether or not there is any emission.

2. Criminal sexual penetration does not include legitimate medically indicated procedures.
3. Any person found guilty or entering a plea of guilty to criminal sexual penetration will be sentenced to a jail term not less than six (6) months but not to exceed one (1) year or assessed a fine of not more than One Thousand Dollars (\$1,000.00).
4. Any person found guilty or entering a plea of guilty to criminal sexual penetration on a victim less than eighteen (18) years old shall be sentenced to a jail term not less than six (6) months but not to exceed one (1) year or assessed a fine up to Five Thousand Dollars (\$5,000.00) or both.
5. In addition, any person found guilty or pleads guilty to this charge shall be ordered to register as a "sex offender" in the Pueblo of Jemez Sex Offender Registration Program and comply with the requirements therein. Failure to comply with the court's order shall constitute non-compliance with the court orders and subject the violator to penalties as specified in Section 8.01 of the Pueblo of Jemez's Sex Offender Registration Code.

D. CRIMES INVOLVING CHILDREN AND DEPENDENTS

SECTION 3-2-26 CHILD NEGLECT

1. Any person who is a parent, guardian or otherwise has legal custody of a child under the age of eighteen (18) years and shall leave such child unattended (or attended by a person not competent to care for the child) under circumstances where the child suffered or might have suffered from neglect or who fails to provide necessities for the child's well being, including but not limited to education, medical or other care shall be guilty of the offense of child neglect.
2. Any person found guilty or entering a plea of guilty to the charge shall be sentenced to a jail term not to exceed one (1) year or assessed a fine of not more than One Thousand Dollars (\$1,000.00) or both.

SECTION 3-2-27 CHILD ABUSE

1. Child abuse consists of any parent, guardian or other person having care or custody of any child, who knowingly, intentionally or negligently and without justifiable cause, causes or permits a child to be verbally or physically tortured, cruelly punished, tormented or physically injured, exposed to the inclemency of the weather, or placed in a situation that may endanger the child's life or health.
2. Any person found guilty or entering a plea of guilty to the charge shall be sentenced to a jail term not to exceed one (1) year or assessed a fine of not more than One Thousand Dollars (\$1,000.00) or both.

SECTION 3-2-28 CHILD ENTICEMENT

1. Enticement of a child consists of either:

a. Enticing, persuading or attempting to persuade a child less than 18 years to enter a vehicle, building, room or a secluded place with the intent to commit criminal sexual penetration, criminal sexual contact of a minor or indecent exposure.

2. Any person found guilty or entering a plea of guilty to the charge shall be sentenced to a jail term not to exceed one (1) year or assessed a fine of not less than Five Hundred Dollars (\$500.00) but not more than One Thousand Dollars (\$1,000.00) or both.

3. In addition, any person found guilty or pleads guilty to this charge shall be ordered to register as a "sex offender" in the Pueblo of Jemez Sex Offender Registration Program and comply with the requirements therein. Failure to comply with the court's order shall constitute non-compliance with the court orders and subject the violator to penalties as specified in Section 8.01 of the Pueblo of Jemez's Sex Offender Registration Code.

SECTION 3-2-29 CRIMINAL SEXUAL CONTACT OF A MINOR

1. Criminal sexual contact of a minor is any sexual act or the intentional touching or applying force to the intimate parts of a minor or the intentional causing of a minor to touch one's intimate parts and consists of all sexual contact of a minor perpetrated on a child less than eighteen (18) years of age.

2. Any person found guilty or entering a plea of guilty to this charge shall be sentenced to a jail term not to exceed one (1) year or assessed a fine of not less than Five Hundred Dollars (\$500.00) or not more than One Thousand Dollars (\$1,000.00) or both.

3. In addition, any person found guilty or pleads guilty to this charge shall be ordered to register as a "sex offender" in the Pueblo of Jemez Sex Offender Registration Program and comply with the requirements therein. Failure to comply with the court's order shall constitute non-compliance with the court orders and subject the violator to penalties as specified in Section 8.01 of the Pueblo of Jemez's Sex Offender Registration Code.

SECTION 3-2-30 SEXUAL EXPLOITATION OF CHILDREN

1. It is unlawful for any person to intentionally distribute or possess with intent to distribute any visual or print medium depicting any prohibited sexual act or simulation of such an act if that person knows or has reason to know that the medium depicts any prohibited sexual act or simulation of such act and if that person knows or has reason to know that one or more of the participants in that act is a child under eighteen (18) years of age.

2. It is unlawful for any person to intentionally cause or permit a child under eighteen (18) years of age to engage in any prohibited sexual act or simulation of such an act if that person knows, has reason to know or intends that the act may be recorded in any visual or print medium or performed publicly.

3. It is unlawful for any person to intentionally manufacture any visual or print medium depicting any prohibited sexual act or simulation of such an act if one or more of the participants in that act is a child under eighteen (18) years of age.

4. Definitions

As used in this Section:

a. "prohibited sexual act" means:

- i. sexual intercourse, including genital-genital, oral-genital, anal-genital or oral-anal, whether between persons of the same or opposite sex;
- ii. bestiality;
- iii. masturbation;
- iv. sadomasochistic abuse for the purpose of sexual stimulation; or
- v. lewd and sexually explicit exhibition with a focus on the genitals or pubic area of any person for the purpose of sexual stimulation;

b. "visual or print medium" means:

- i. any film, photograph, negative, slide, computer diskette, videotape, videodisc or any computer or electronically generated imagery; or
- ii. any book, magazine or other form of publication or photographic reproduction containing or incorporating any film, photograph, negative, slide, computer diskette, videotape, videodisc or any computer generated or electronically generated imagery;

c. "performed publicly" means performed in a place which is open to or used by the public; and

d. "manufacture" means the production, processing, copying by any means, printing, packaging or repackaging of any visual or print medium depicting any prohibited sexual act or simulation of such an act if one or more of the participants in that act is a child under eighteen (18) years of age.

5. Any one found guilty or entering a plea of guilty to this charge shall be sentenced to a jail term not to exceed one (1) year or assessed a fine of not less than One Thousand Dollars (\$1,000.00) or both.

6. In addition, any person found guilty or pleads guilty to this charge shall be ordered to register as a "sex offender" in the Pueblo of Jemez Sex Offender Registration Program and comply with the requirements therein. Failure to comply with the court's order shall constitute non-compliance with the court orders and subject the violator to penalties as specified in Section 8.01 of the Pueblo of Jemez's Sex Offender Registration Code.

E. CRIMES RELATING TO ALCOHOL AND DRUGS

SECTION 3-2-31 INTOXICATION

1. It shall be unlawful for any person to be found in a drunken or intoxicated condition anywhere within the limits of this jurisdiction to the degree that he/she may endanger himself or another or annoy any person in his/her vicinity or disturbs the peace.
2. Any person found guilty or entering a plea of guilty to the charge shall be sentenced to a jail term not to exceed ninety (90) days or assessed a fine of not more than Five Hundred Dollars (\$500.00) or both.
3. The court may in its judgment order the person upon conviction to participate in any available alcoholic or drug abuse program in lieu of the penalties in Paragraph 2 which may be reimposed upon failure of the person to follow the orders of the Court.

SECTION 3-2-32 INHALING VOLATILE SOLVENTS

1. Inhaling volatile solvents consists of intentionally smelling, breathing, or inhaling the fumes or vapors from any paint, glue, gasoline or any similar substance containing one or more volatile solvents for the purpose of causing a condition of intoxication, inebriation, euphoria, exhilaration or the dulling of the brain or the nervous system.
2. Any person found guilty of such offense or entering a plea of guilty shall be jailed for ninety (90) days or assessed a fine in the amount of Five Hundred Dollars (\$500.00) or both.
3. The Court in its discretion may order the person upon conviction to participate in any available alcoholic or drug abuse program in lieu of the foregoing penalties which may be reimposed upon failure of the person to follow the orders of the Court.

SECTION 3-2-33 LIQUOR VIOLATION

1. Any person who shall possess, sell, trade, transport or manufacture any beer, ale, wine, whiskey, or any other alcoholic beverage within the limits of this jurisdiction shall be deemed guilty of this offense and upon conviction thereof shall be sentenced to a jail for a period not to exceed ninety (90) days or a fine of not more than Five Hundred Dollars (\$500.00) or both.
2. All such materials, including but not limited to motor vehicles and bicycles, used to transport alcoholic beverages may be confiscated by order of the court. Motor vehicles may be impounded or immobilized for a period to be decided by the Court.

SECTION 3-2-34 POSSESSION OF ALCOHOLIC BEVERAGES BY A PERSON LESS THAN TWENTY-ONE (21) YEARS OF AGE

1. Any person under the age of twenty-one (21) years who is found in possession of any alcoholic beverage shall be deemed guilty of the offense.

2. Upon conviction by the Tribal Court or after an entry of a guilty plea by the Defendant, the Defendant shall be confined for a period not exceeding ninety (90) days or a fine not to exceed Five Hundred (\$500.00) or both.

SECTION 3-2-35 POSSESSION, SELLING OR GIVING ALCOHOLIC BEVERAGES TO A MINOR

1. Any person who shall sell, give or distribute or make available to any person who is a minor (under 21 years) any alcoholic beverage shall be deemed guilty of the offense.
2. Any person found guilty or entering a plea of guilty to the charge shall be sentenced to a jail term not to exceed one (1) year or assessed a fine of not more than One Thousand Dollars (\$1,000.00) or both.
3. Any person who uses a motor vehicle for commission of this offense may have their motor vehicle impounded or immobilized for a period to be decided by the court.

SECTION 3-2-36 POSSESSION OF MARIJUANA

1. Any person who shall plant, grow, cultivate, possess, give, or use marijuana, deemed under State and Federal law to be illegal, shall be deemed guilty of this offense.
2. Any person found guilty or entering a plea of guilty to the charge of possessing less than one (1) ounce of marijuana shall be sentenced to a jail term not to exceed ninety (90) days or assessed a fine of not more than Five Hundred Dollars (\$500.00) or both. The Court may suspend the sentence under this Section upon condition that the offender submit to treatment at a recognized drug treatment facility or attend drug abuse counseling.
3. Any person found guilty or pleading guilty to possessing marijuana of more than one (1) ounce shall be sentenced to a jail term of up to one (1) year or assessed a fine of not more than One Thousand Dollars (\$1,000.00) or both.

SECTION 3-2-37 CONTROLLED SUBSTANCES

1. Any person who shall possess, give or use any drugs or controlled substances deemed under federal or state law to be illegal shall be deemed guilty of this offense.
2. Any person found guilty or pleading guilty to this offense shall be sentenced to a jail term of up to one (1) year or assessed a fine of not more than One Thousand Dollars (\$1,000.00) or both.

SECTION 3-2-38 SALE OR POSSESSION OF DRUG PARAPHERNALIA

1. Any person who sells, buys, attempts to buy or possess any device used or intended to be used for the preparation or consumption of illegal drugs shall be deemed guilty of the offense.

2. Any person found guilty or entering a plea of guilty to the charge shall be sentenced to a jail term not to exceed one (1) year or assessed a fine of not more than One Thousand Dollars (\$1,000.00) or both.
3. Such drug paraphernalia shall be confiscated and destroyed by the tribal police.

SECTION 3-2-39 DISTRIBUTION OF ILLEGAL DRUGS

1. Any person who introduces, sells, distributes or makes available to any person , any illegal drug shall be deemed guilty of the offense. An illegal drug is that drug defined under state and federal law to be illegal.
2. Any person found guilty or entering a plea of guilty to the charge shall be sentenced to a jail term not to exceed one (1) year or assessed a fine of not more than One Thousand Dollars (\$1,000.00) or both.
3. All evidence seized pursuant to a violation of this section, including but not limited to illegal drugs, money, contraband or other equipment shall be confiscated by tribal officials or law enforcement authorities.
4. Any non-Indian not subject to the jurisdiction of the Jemez Tribal Court who introduces, sells, distributes or makes available any illegal drugs on the Jemez Indian Reservation shall be detained and prosecuted under the appropriate Federal or State statute and any drugs in his possession shall be confiscated and turned in as evidence to the appropriate authorities for prosecution.

F. WEAPON/CRIMES RELATED TO WEAPONS

SECTION 3-2-40 UNLAWFUL CARRYING OF A DEADLY WEAPON

1. Unlawful carrying of a deadly weapon shall consist of carrying a concealed loaded or unloaded firearm or any weapon which is capable of producing death or great bodily harm. "Carrying a deadly weapon" means being armed with a deadly weapon by having it on the person or in close proximity thereto, so that the weapon is readily accessible for use.
2. Whoever commits unlawful carrying of a deadly weapon shall be deemed guilty and upon conviction thereof or upon a plea of guilty shall be sentenced to jail not to exceed one (1) year or assessed a fine not to exceed One Thousand Dollars (\$1,000.00) or both.

SECTION 3-2-41 NEGLIGENT USE OF A FIREARM

1. Negligent use of a firearm shall consist of:
 - a. Discharging a firearm into any building or vehicle so as to knowingly endanger a person or cause damage to his property;

b. Carrying a firearm while under the influence of alcohol or illegal drugs; carrying a firearm means having it on the person or in close proximity thereto so that the weapon is readily accessible for use.

c. Endangering the safety of another by handling or using a firearm in a negligent manner; or

d. Discharging a firearm within 100 yards of any dwelling.

e. Discharging a firearm on New Year's Eve.

2. Any person found guilty or entering a plea of guilty to the charge shall be sentenced to jail not to exceed one (1) year or assessed a fine not to exceed One Thousand Dollars (\$1,000.00) or both.

SECTION 3-2-42 POSSESSION AND DISCHARGING OF A FIREARM BY A PERSON UNDER THE AGE OF EIGHTEEN (18)

1. Any person under the age of eighteen (18) years who is found to be in possession and is discharging a firearm within the exterior boundaries of the Jemez Reservation, without proof or certification of completion of a tribally or state approved firearm safety training course shall be deemed to be in violation of this provision.

2. Any person under the age of eighteen (18) years who is found to be in violation of this provision shall be assessed a fine not in excess of Five Hundred Dollars (\$500.00).

3. Any parent(s) or legal guardian of a person who is found to be in violation of this provision may also be assessed a fine not in excess of Five Hundred Dollars (\$500.00) for allowing the person to possess and discharge a firearm without meeting the requirements of this section.

SECTION 3-2-43 UNLAWFUL CARRYING OF A DEADLY WEAPON ON SCHOOL PREMISES

1. Unlawful carrying of a deadly weapon on school premises consists of carrying a deadly weapon on school premises except by:

a. a peace officer;

b. school security personnel;

c. a student, instructor or other school-authorized personnel engaged in army, navy, marine corps or air force reserve officer training corps programs or state-authorized hunter safety training instruction;

2. As used in this section, "school premises" means:

a. the buildings and grounds, including playgrounds, playing fields and parking areas and any school bus or any public elementary, secondary, junior high or high school in or on which school or school-related activities are being operated under the supervision of a local school board; or

b. Whoever commits unlawful carrying of a deadly weapon on school premises and is found guilty or pleads guilty shall be sentenced to a jail term not to exceed one (1) year or assessed a fine of not more than One Thousand Dollars (\$1,000.00) or both.

SECTION 3-2-44 UNLAWFUL DISCHARGE OF FIREWORKS (BETWEEN THE HOURS OF 10:00 P.M. AND 5:00 A.M.)

1. Except for the fourth of July holiday which allows for use of fireworks under conditions set forth by the Governors, it shall be unlawful for any person to discharge fireworks within the Pueblo of Jemez between the hours of 10:00 p.m., and 5:00 a.m. Fireworks prohibited under this Section include firecrackers, roman candles, sky rockets or bottle rockets, torpedoes and bombs.

2. Any person found guilty or entering a plea of guilty to the charge shall be assessed a fine of not more than Five Hundred Dollars (\$500.00).

G. LITTERING

SECTION 3-2-45 LITTERING; UNLAWFUL DUMPING

1. It shall be unlawful for any person to place any garbage, refuse, ashes, junk, glass, bottles, tin cans, or any other form of litter on or near any public road or any other public grounds, or in any public waters of the Pueblo of Jemez.

2. Any person found guilty or pleading guilty to the charge shall be fined in an amount of not more than Five Hundred Dollars (\$500.00) and may be required to perform community service.

SECTION 3-2-46 WRECKED, JUNKED OR UNSERVICEABLE PROPERTY

1. It shall be unlawful for any person to store on their property any wrecked, junked, or inoperable vehicle or any other unserviceable property including but not limited to stoves, refrigerators, washing machines or any other discarded items which detract from the appearance of the premises.

2. Whoever shall violate this Section shall be deemed guilty of the offense and upon conviction thereof be sentenced to jail for a period not to exceed ninety (90) days or to a fine not to exceed One Hundred Dollars (\$100.00) or both.

SECTION 3-2-47 UNLAWFUL BURNING OF TRASH

1. It shall be unlawful for any person to burn trash within the boundaries of Jemez Pueblo that is likely to cause an explosion or emit fumes hazardous or dangerous to the health and safety of the public.

2. Any person found guilty or pleading guilty to the charge shall be fined in an amount not to exceed Five Hundred Dollars (\$500.00) and may be required to perform community services.

SECTION 3-2-48 UNLAWFUL BURNING DURING FIRE RESTRICTIONS

1. It is unlawful for any person to burn, including but not limited to, weeds, trees, shrubs, within the exterior boundaries of the Jemez Reservation in violation of posted or announced fire restrictions imposed by the Pueblo, Bureau of Indian Affairs or the United States Forest Service.

2. Whoever shall violate this section shall be deemed guilty of the offense and upon conviction thereof be sentenced to jail for a period not to exceed ninety (90) days or to a fine not to exceed One Hundred Dollars (\$100.00) or both.

H. ANIMAL CONTROL

SECTION 3-2-49 DECLARATION OF POLICY

1. Section 3-2-49 to 3-2-53 is intended to regulate the vaccination, impoundment, quarantine and disposal of stray and feral dogs and cats on the lands within the Jemez Reservation to preserve the public health, safety and welfare by prevention of nuisances and hazards resulting from dogs and cats.

SECTION 3-2-50 CONTROL, REGISTRATION AND LICENSING

1. Control, registration and licensing of dogs and cats shall be the responsibility of the owner.

2. All dogs and cats over the age of six (6) months, owned, kept or maintained within the boundaries of the Jemez Reservation shall be registered by the homeowner. The Public Safety Tech and Injury Prevention Program will maintain registration records at a centralized location.

3. Presentation of a certificate, attesting to vaccination against rabies, together with vaccination tag shall be considered as registration.

4. Upon registration of a dog or cat, the vaccination tag will be considered the license tag for each such animal. The vaccination tag shall be affixed to a collar, harness, or other suitable device encircling the neck of such dog.

5. Registration shall be done during the annual Rabies Vaccination Clinics, which are provided by the Indian Health Service, Pueblo of Jemez Department of Emergency Management, and coordinated with a veterinary clinic.

SECTION 3-2-51 VICIOUS DOGS

1. Any dog that shall attack or bite any person without provocation shall be presumed to be vicious, except dogs, which are maintained as guard animals and kept in an enclosure, or are restricted by means of a chain to a specific property limit and in the protective capacity, bite or otherwise attack an intruder or trespasser. It shall be unlawful for any person or persons to own, keep, or maintain a vicious dog within the exterior boundaries of the Jemez Reservation. Any person convicted of this section shall be fined in an amount set by the Court but not to exceed Five Hundred Dollars (\$500.00).
2. Upon notification that a dog has bitten or attacked a human for the first time, the owner shall be notified, and required to pen or secure the dog for a minimum of ten days.
3. Any dog that inflicts two or more unprovoked bites on persons, or that inflicts a severe unprovoked injury on any person, shall be presumed to be vicious and shall be destroyed humanely.
4. Any tribal member who wishes to own a watchdog shall be responsible for maintaining such dog in an enclosed area, or secured by means of chain or other suitable device within the owner's property. All such owners shall post at least one clear and visible warning sign, which alerts the public to the presence of the watchdog.
5. Any dog that exhibits physical signs of rabies shall be destroyed humanely by the Public Safety Tech or designated official, who will submit the head specimen to the New Mexico State Laboratory for Rabies Analysis.

SECTION 3-2-52 OWNERSHIP

All individuals shall be restricted to one dog per household. For families in rural areas of the Jemez Reservation who feel they need more than one (1) dog, the limit shall be two (2).

SECTION 3-2-53 RESTRICTION OF DOGS AND CATS

1. An animal that has rabies or shows signs of having rabies shall be confined at once in a secure place by the owner and the dog shall be disposed of properly by the owner or if no owner by a tribal official.
2. It is unlawful for the owner of any animal to allow the animal to commit any nuisance upon the property of any person other than the owner's premises.
3. All dogs shall be penned up or tied up during religious activities.
4. Any person who willfully or negligently violates this Section shall be subject to a citation by the tribal officials or Tribal Police. Upon citation the person shall be ordered to appear in the Tribal Court and a person found guilty of willful or negligent violation of this Section shall be subject to a fine of not more than One Hundred Dollars (\$100.00).

SECTION 3-2-54 STRAY AND UNLICENSED DOGS AND CATS

Any dog or cat found within the boundaries of the Jemez Indian Reservation not wearing a vaccination tag will be considered a stray and as such may be destroyed by any tribal official or picked up by the Injury Prevention Personnel without liability for the animal.

SECTION 3-2-55 CRUELTY TO ANIMALS

1. It is unlawful for any person to viciously abuse his/her own animal or that of another person.
2. Any person found guilty or entering a plea of guilty for violation of this Section shall be subject to a fine of not more than Five Hundred Dollars (\$500.00). In the appropriate case the court may order restitution by the offender to any person damaged by the offender's acts.

SECTION 3-2-56 SHOOTING/SLAUGHTERING LIVESTOCK

Shooting/slaughtering livestock consists of any person maliciously and willfully shooting or slaughtering any livestock not his own. Any person found guilty or entering a plea of guilty shall be subject to a fine not to exceed One Thousand Dollars (\$1,000.00) or be confined to jail for a period not to exceed one (1) year. Upon conviction the court may in its discretion order the Defendant to pay the market value of the livestock destroyed.

SECTION 3-2-57 UNLAWFUL TO PERMIT ANIMALS TO RUN AT LARGE

1. It shall be unlawful for any person as owner of any horses, cattle, sheep, swine, or other domestic animals to allow the same to run at large within the residential area, on the state highway right-of-way and in areas designated as the farm lands.
2. Any owner of the animal(s) who permits the animal(s) to run at large in the areas prohibited in paragraph one shall be deemed guilty of the offense.
3. Upon conviction of the offense the court shall assess a fine not to exceed One Thousand Dollars (\$1,000.00). The court in its discretion may order that restitution be made by the owner of the animal(s) to the person whose property is damaged by the animals.

SECTION 3-2-58 ROUND UP OF UNBRANDED LIVESTOCK/HORSES

The Pueblo according to its traditions and custom may annually round up livestock. Any unbranded livestock rounded-up at the annual round up or livestock not claimed by the true owner shall become the property of the Pueblo and be sold by the Pueblo. The proceeds of the sale of livestock shall remain with the Pueblo of Jemez.

SECTION 3-2-59 UNLAWFUL BRANDING

1. Unlawful branding consists of either: branding, marking or causing to be branded or marked any animal which is the property of another, with any brand not the brand of the owner of the animal, or defacing or obliterating any brand or mark upon any animal, which is the property of another.
2. Upon conviction thereof the person shall be subject to a fine in an amount not to exceed One Thousand Dollars (\$1,000.00) or sentenced to jail not to exceed one year.

I. CRIMES AGAINST PUBLIC PEACE

SECTION 3-2-60 CURFEW VIOLATION

1. Any person under the age of eighteen (18) years old who is unaccompanied by a parent or guardian and is found to be driving, loitering or walking around within the exterior boundaries of the Pueblo of Jemez after the hour of 10:00 p.m., during the school year (August 1 – May 31) shall be deemed guilty of this offense and upon conviction be assessed a fine not to exceed Five Hundred Dollars (\$500.00) and be required to perform community service.
2. Any person under the age of eighteen (18) years old who is unaccompanied by a parent or guardian and who is found driving, loitering or walking within the exterior boundaries of the Pueblo of Jemez after 11:00 p.m., (between June 1 to July 31) shall be deemed guilty of this offense and upon conviction be assessed a fine of Five Hundred Dollars (\$500.00) and be required to perform community service.
3. Any parent, guardian or custodian who knowingly and willfully fails to have a child observe and obey the curfew schedule shall be deemed guilty of the offense and upon conviction thereof shall be assessed a fine not to exceed Five Hundred Dollars (\$500.00).

SECTION 3-2-61 DISORDERLY CONDUCT

1. Disorderly conduct consists of engaging in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to disturb the peace.
2. Any person who is found guilty by the Tribal Court or enters a plea of guilty shall be sentenced to jail not to exceed ninety (90) days or assessed a fine not to exceed Five Hundred Dollars (\$500.00) or both.

SECTION 3-2-62 PUBLIC AFFRAY

1. Public affray consists of two or more persons fighting in an angry or quarrelsome manner in any public place, to the disturbance of others.
2. Whoever commits a public affray and is found guilty by the Tribal Court or enters a plea of guilty shall be sentenced to jail not to exceed ninety (90) days or a fine not to exceed Five Hundred Dollars (\$500.00).

SECTION 3-2-63 INDECENT EXPOSURE

1. Indecent exposure consists of knowingly and willfully exposing the private parts or sexual organs of a person to the public view.
2. Any person committing such acts shall be deemed guilty of the offense and upon conviction shall be sentenced to jail not to exceed ninety (90) days or assessed a fine not to exceed Five Hundred Dollars (\$500.00).

SECTION 3-2-64 MANDATORY SCHOOL ATTENDANCE

1. Any child who has not obtained the age of eighteen (18) years and who has not graduated from the twelfth grade is required to attend school.
2. Any person who has a mental or physical disability is not subject to paragraph one of this Section if a written statement verifying the disability and explaining why such disability makes schooling unfeasible is obtained from a licensed medical doctor or psychologist.
3. Any person who violates any provision of paragraph one or fails to secure a written statement shall be subject to a notice to appear in Tribal Court to address the issues.

SECTION 3-2-65 FAILURE TO SEND CHILDREN TO SCHOOL

1. A parent, guardian, or custodian of a compulsory-school-age child shall cause such child to enroll in and attend a BIA funded school, public school or legitimate nonpublic school for the period of time that such child is of compulsory school age except:
 - a. when a compulsory school-age child is physically, mentally, or emotionally incapable of attending school as determined by the appropriate school official based upon sufficient medical documentation.
 - b. if the child has been expelled from his or her school. The parent, guardian or custodian of the compulsory school-age child shall immediately enroll such child in another school.
2. Any parent, guardian, or custodian of a compulsory-school-age child who refuses or willfully fails to enroll or send such child to school shall be guilty of failure to send children to school and upon conviction be assessed a fine not to exceed Five Hundred Dollars (\$500.00) or jail not to exceed ninety (90) days or both.
3. Compulsory school-age child means a child who has attained the age of five (5) by September 1 of the calendar year and who have not attained the age of eighteen (18) years on or before September 1 of the calendar year.

SECTION 3-2-66 AIDING AND ABETTING THE COMMISSION OF AN OFFENSE.

1. Any person who aids, assists, abets or counsels in a commission of an offense is guilty of the offense and is subject to the same punishment as if he/she had actually committed the offense.

2. The penalty for aiding and abetting the commission of any offense shall be the same penalty provided for the commission of such offense.

SECTION 3-2-67 TELEPHONE HARASSMENT; SEXTING

1. Any person who uses a telephone with intent to terrify, intimidate, threaten, harass, annoy or offend another and use any obscene, lewd or profane language or threaten to inflict injury or physical harm to the person or property of any person shall be deemed to be guilty of this offense.

2. The use of obscene, lewd or profane language or the making of a threat or statement shall be evidence of the intent to terrify, intimidate, threaten, harass, annoy or offend.

3. Any person who violates this Section upon conviction thereof shall be sentenced to jail not to exceed ninety (90) days or a fine not to exceed Five Hundred Dollars (\$500.00) or both.

SECTION 3-2-68 CONCEALING IDENTITY

1. Concealing identity consists of any person who conceals ones true name or identity or disguises oneself with the intent to obstruct due execution of the law or with the intent to intimidate, hinder or interrupt any Tribal Official or any Law Enforcement Officer in the performance of his/her duties.

2. Any person found violating this Section shall be deemed guilty of the offense and sentenced to jail not to exceed six (6) months or a fine not to exceed Five Hundred Dollars (\$500.00) or both.

SECTION 3-2-69 PARTIES TO A CRIME/UNLAWFUL ACTS

1. A person who commits, attempts to commit, conspires to commit or aids or abets in the commission of any act declared herein to be unlawful whether individually, or in connection with one or more persons shall be guilty of the offense.

2. Upon conviction by the Tribal Court or after an entry of a guilty plea by the Defendant, the Defendant shall be sentenced to jail for a period not exceeding ninety (90) days or a fine not to exceed Five Hundred Dollars (\$500.00) or both.

J. INTERFERENCE WITH LAW ENFORCEMENT

SECTION 3-2-70 RESISTING/ELUDING OR OBSTRUCTING TRIBAL OFFICIAL/LAW ENFORCEMENT OFFICER

1. Resisting arrest consists of any person who willfully and knowingly resists, by force or violence, arrest by a Tribal Official or a Law Enforcement Officer.
2. Eluding consists of any person who shall knowingly flees or attempts to evade a Tribal Official or Law Enforcement Officer when the person committing the act of fleeing, or evasion has knowledge that the officer is attempting to apprehend, arrest or lawfully detain.
3. Obstructing consists of any person who knowingly obstructs any Tribal Official or Law Enforcement Officer in the lawful discharge of his duties.
4. Any person found guilty or entering a plea of guilty shall be sentenced to jail not to exceed one (1) year or a fine not to exceed One Thousand Dollars (\$1,000.00) or both.

SECTION 3-2-71 REFUSING TO AID A TRIBAL OFFICIAL/LAW ENFORCEMENT OFFICER

1. Refusing to aid an officer consists of refusing to assist any Tribal Official/Law Enforcement Officer in the preservation of peace when called upon by said officer.
2. Any person who refuses to aid an officer upon conviction shall be sentenced to jail not to exceed ninety (90) days or assessed a fine not to exceed Five Hundred Dollars (\$500.00) or both.

SECTION 3-2-72 ESCAPE FROM HOLDING CELL

1. Escape from holding cell consists of any person who shall have been lawfully committed to any holding cell, and escaping or attempting to escape from such holding cell.
2. Any person found guilty of the charge of escape shall be sentenced to jail not to exceed one (1) year or assessed a fine not to exceed One Thousand Dollars (\$1,000.00) or both.

SECTION 3-2-73 ESCAPE FROM CUSTODY OF TRIBAL OFFICIAL/LAW ENFORCEMENT OFFICER

1. Escape from custody of a Law Enforcement Officer or Tribal Official consists of any person who shall have been placed under lawful arrest for the commission or alleged commission of any offense in this Code, escaping or attempting to escape from custody or control of any Tribal Official or Law Enforcement Officer.
2. Any person who shall violate this Section shall be found guilty and upon conviction thereof shall be sentenced to jail not to exceed one (1) year or assessed a fine not to exceed One Thousand Dollars (\$1,000.00) or both.

SECTION 3-2-74 ASSISTING ESCAPE

1. Assisting escape consists of intentionally aiding the escape of any person confined or held in lawful custody.
2. Any person found guilty or entering a plea of guilty shall upon conviction be sentenced to jail not to exceed one (1) year or assessed a fine not to exceed One Thousand Dollars (\$1,000.00) or both.

SECTION 3-2-75 ASSAULT UPON A TRIBAL OFFICIAL/LAW ENFORCEMENT OFFICER

1. Assault upon a Tribal Official or Law Enforcement Officer consists of:
 - a. An attempt to commit a battery upon a Tribal Official or a Law Enforcement Officer while he is in the lawful discharge of his duties; or
 - b. An unlawful act or menacing conduct which causes a tribal official or Law Enforcement Officer while he is in the lawful discharge of his duties to reasonably believe that he is in danger or receiving an immediate battery.
2. Any person found guilty of such offense shall be sentenced to jail not less than six (6) months but no more than one (1) year or assessed a fine of not less than Five Hundred Dollars (\$500.00) but no more than One Thousand Dollars (\$1,000.00) or both.

SECTION 3-2-76 AGGRAVATED ASSAULT UPON A TRIBAL OFFICIAL/LAW ENFORCEMENT OFFICER

1. Aggravated assault upon a Tribal Official or Law Enforcement Officer consists of:
 - a. unlawfully assaulting a Law Enforcement Officer or Tribal Official with a deadly weapon while he/she is in lawful discharge of his duties.
2. Any person found guilty of such offense shall be sentenced to jail not less than six (6) months but no more than one (1) year or a fine of not less than One Thousand Dollars (\$1,000.00) but no more than Five Thousand (\$5,000.00) or both.

SECTION 3-2-77 BATTERY UPON TRIBAL OFFICIAL/LAW ENFORCEMENT OFFICER

1. Battery upon a Law Enforcement Officer or a Tribal Official consists of unlawfully and intentionally touching or applying force to the Law Enforcement Officer or Tribal Official while he is the lawful discharge of his duties when done in a rude, insolent, or angry matter.
2. Any person found guilty of this charge shall be sentenced to a jail term not less than six (6) months but no more than one (1) year or assessed a fine of not less than One Thousand Dollars (\$1,000.00) dollars but no more than Five Thousand Dollars (\$5,000.00) or both.

SECTION 3-2-78 AGGRAVATED BATTERY UPON TRIBAL OFFICIAL/LAW ENFORCEMENT OFFICER

1. Aggravated battery upon a Tribal Official or Law Enforcement Officer shall consist of the unlawful touching or application of force to a Law Enforcement Officer or Tribal Official while he is in the lawful discharge of his duties with intent to injure that person or touching or applying force to a Law Enforcement Officer or Tribal Official with a deadly weapon.

2. Any person found guilty of this charge shall be sentenced to a jail term not less than six (6) months but no more than one (1) year or assessed a fine of not less than One Thousand Dollars (\$1,000.00) but no more than Five Thousand Dollars (\$5,000.00) or both.

SECTION 3-2-79 REFUSING TO OBEY A LAWFUL ORDER OF A LAW ENFORCEMENT OFFICER OR TRIBAL OFFICIAL

1. Refusing to obey a lawful order of a Law Enforcement Officer or Tribal Official consists of any person refusing to obey or comply with any lawful process or order given by any Law Enforcement Officer or Tribal Official acting in the lawful discharge of their duties.

2. Any person found guilty of such charge or entering a plea to such charge shall be sentenced to jail not to exceed ninety (90) days or assessed a fine not to exceed Five Hundred Dollars (\$500.00) or both.

SECTION 3-2-80 BRIBERY OF A LAW ENFORCEMENT OFFICER/TRIBAL OFFICIAL

1. Bribery of a Law Enforcement Officer/Tribal Official consists of any person who shall give or shall offer to give any money, property, services or any other gain or advantage to a Tribal Official or Law Enforcement Officer with the intent to influence the officer or official in the discharge of his public duties.

2. Any person found guilty of such charge or entering a plea to such charge shall be sentenced to jail not to exceed ninety (90) days or assessed a fine not to exceed Five Hundred Dollars (\$500.00) or both.

SECTION 3-2-81 ACCEPTING A BRIBE

1. Accepting a bribe consists of any person who shall accept from another any money, property, services, or other gain or advantage for the purpose of influencing another in the discharge of his public duties.

2. Any person found guilty of accepting a bribe shall be sentenced to jail not to exceed ninety (90) days or assessed a fine not to exceed Five Hundred Dollars (\$500.00).

SECTION 3-2-82 FAILING TO APPEAR

1. Any person who fails to appear on a complaint, citation, summons, subpoena or any lawful order properly issued by the Tribal Court shall be deemed guilty of the offense. Upon failure to appear the Tribal Court shall issue a bench warrant pursuant to the provisions set out in this Code and the person shall be brought before the Court on the charge.

2. Any person found guilty on the failure to appear shall be sentenced to jail not to exceed ninety (90) days or pay a fine not to exceed Five Hundred Dollars (\$500.00) or both.

SECTION 3-2-83 CONTEMPT OF COURT

Contempt of court consists of any person who disobeys any written or verbal order, or disrupts the orderly procedure of the Tribal Court proceedings. Any person violating this provision, may be arrested and incarcerated for a period not exceeding ninety (90) days or assessed a fine not exceeding Five Hundred Dollars (\$500.00) or both.

SECTION 3-2-84 PERJURY

1. Perjury consists of making a false statement under oath or affirmation, material to the issue or matter involved in the course of any judicial, administrative, legislative or other official proceeding, knowing such statements to be untrue.

2. Any person found guilty of perjury shall be sentenced to jail not to exceed ninety (90) days or pay a fine not to exceed Five Hundred Dollars (\$500.00) or both.

SECTION 3-2-85 INTIMIDATION OF A WITNESS

1. Intimidation of a witness consists of knowingly intimidating or threatening a witness or give or offer to give anything of value to the witness with the intent to keep him/her from truthfully reporting to a Law Enforcement Officer, tribal court or any agency of government that is responsible for enforcing criminal laws, information relating to the commission or possible commission of a criminal offense.

2. Any person found guilty of violating this section shall be sentenced to jail not to exceed six (6) months or pay a fine not to exceed Five Hundred Dollars (\$500.00) or both.

SECTION 3-2-86 RETALIATION AGAINST A WITNESS

1. Retaliation against a witness consists of knowingly engaging in conduct that caused damage to the tangible property of a witness or threaten to do so, with the intent to retaliate against any person for any information, relating to the commission or possible commission of a criminal offense.

2. Any person found guilty of violating this section shall be sentenced to jail not to exceed six (6) months or pay a fine not to exceed Five Hundred Dollars (\$500.00) or both.

K. OFFENSES RELATING TO CULTURAL ACTIVITIES

SECTION 3-2-87 JURISDICTION

1. The Tribal Court in its discretion and pursuant to traditional tribal law and custom shall defer jurisdiction to the religious or secular council on offenses it deems can be appropriately handled by the religious council. The Tribal Court shall defer such jurisdiction to the religious council in cases involving only tribal members.
2. Jurisdiction over non-member Indians and non-Indians violating provisions relating to cultural activities shall be in the Tribal Court.

SECTION 3-2-88 PHOTOGRAPHY/PHOTOGRAPHS OF TRADITIONAL DANCES

1. It shall be unlawful for any person to photograph, videotape, sketch or tape record any cultural dances or events performed within the plaza.
2. Any Indian violating this Section shall have his/her camera, videotape and recording equipment confiscated and the film destroyed.
3. Upon conviction any Indian may be sentenced to a jail term not to exceed ninety (90) days or assessed a fine not to exceed One Thousand Dollars (\$1,000.00) or both and in the court's discretion, the camera and other electronic devices may be forfeited.
4. Any non-Indian violating provision of this code shall have their film, tapes and sketches confiscated and be subject to additional civil penalties as deemed appropriate by the Tribal Court. The Tribal Court may in its discretion order the destruction of such films, tapes or sketches.

SECTION 3-2-89 SALE OF RELIGIOUS ARTIFACTS/ITEMS

1. Any person living within the exterior boundaries of the Jemez reservation by permission, marriage or otherwise shall be prohibited from selling, giving, exchanging any Indian or religious items, artifacts generally known by Jemez Pueblo tradition and custom to be an item of secretive nature, to non-Indians or non-member Indians.
2. The Tribal Court shall defer jurisdiction to the religious council, for violation of this provision. In the event that the religious council shall not take action upon the matter, the Tribal Court shall assume jurisdiction, over the person violating this provision.
3. Any non-Indian violating this Section shall be subject to civil penalties as deemed appropriate by the Tribal Court.

SECTION 3-2-90 DRIVING MOTOR VEHICLES IN RESTRICTED AREAS

1. It is unlawful for any person who knowingly drives a motor vehicle into a restricted area during a cultural religious event.

2. Upon conviction any Indian may be sentenced to jail not to exceed ninety (90) days or assessed a fine not to exceed One Thousand Dollars (\$1,000.00).

3. Any non-Indian violating this Section shall be subject to civil penalties as deemed appropriate by the Tribal Court.

SECTION 3-2-91 REMOVAL OF BARRICADES

1. It is unlawful for any person to knowingly remove a road barrier or barricade set up by the Tribal Official for religious or cultural events.

2. Any person violating this Section shall be assessed a fine not to exceed Five Hundred Dollars (\$500.00).

SECTION 3-2-92 PHOTOGRAPHY/PHOTOGRAPHS OF PUEBLO

1. It shall be unlawful for any person to photograph, videotape or sketch the Pueblo village, shrines or religious sites within the Pueblo of Jemez.

2. Any person violating this section should have his or her camera, video and any equipment used confiscated. Upon conviction, the Court shall assess a fine as it deems appropriate.

SECTION 3-2-93 INTERFERENCE OR TRESPASSING WITHIN RESTRICTED AREAS/SOCIETY

1. It shall be unlawful for any person to knowingly interfere with or trespass within an area restricted for cultural or religious use.

2. Any person violating this provision shall be assessed a fine not to exceed Five Hundred Dollars (\$500.00) or jail not to exceed ninety (90) days in jail.

CHAPTER 3 – COMPUTER CRIMES

SECTION 3-3-1 DEFINITIONS

For the purposes of this chapter, the following words shall have the meanings ascribed herein unless the context clearly requires otherwise.

1. “Access” means to program, to execute programs on, to communicate with, store data in, retrieve data from or otherwise make use of any resources, including data or programs, of a computer, computer system or computer network.
2. “Computer” includes an electronic, magnetic, optical or other high-speed data processing device or system performing logical arithmetic and storage functions and includes any property, data storage facility or communications facility directly related to or operating in conjunction with such device or system. “Computer” shall not include an automated typewriter or typesetter, a machine designed solely for word processing which contains no data base intelligence or a portable hand-held calculator nor shall “computer” include any other device which contains components similar to those in computers but in which the components have the sole function of controlling the device for the single purpose for which the device is intended the controlled device is a processor of data or is a storage of intelligence in which case it too is included.
3. “Computer network” means a set of related, remotely connected devices and communication facilities including at least one (1) computer system with the capability to transmit data through communication facilities.
4. “Computer program” means an ordered set of data representing coded instructions or statements that when executed by a computer cause the computer to process data.
5. “Computer software” means a set of computer programs, procedures, and associated documentation concerned with operation of a computer system.
6. “Computer system” means a set of functionally related, connected or unconnected, computer equipment, devices or computer software.
7. “Computer services” means providing access to or service or data from a computer, a computer system or a computer network and includes the actual data processing.
8. “Financial instrument” means any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, credit card or marketable security.
9. “Intellectual property” includes data, computer programs, computer software, trade secrets, copyrighted materials and confidential or proprietary information in any form or medium which such is stored in, produced by or intended for use or storage with or in a computer, a computer system or a computer network.
10. “Property” means financial instruments, electronically stored or produced data and

computer programs, whether in machine readable or human readable form.

11. "Proper means" includes:

- a. Discovery by independent invention;
- b. Discovery by "reverse engineering" that is, by starting with the known product and working backward to find the method by which it was developed. The acquisition of the known product must be by lawful means;
- c. Discovery under license or authority of the owner;
- d. Observation of the property in public use or on public display; or
- e. Discovery in published literature.

12. "Use" means to make use of, to convert to one's service, to avail oneself of or to employ. In the context of this act, "use" includes to instruct, communicate with, store data in or retrieve data from, or otherwise utilize the logical arithmetic or memory functions of a computer.

SECTION 3-3-2 COMPUTER FRAUD; PENALTIES

1. Computer fraud is the accessing or causing to be accessed of any computer, computer system, computer network, or any part thereof with the intent to:

- a. defraud; or
- b. obtain money, property or services by means of false or fraudulent conduct, practices or representations; or through the false or fraudulent alteration, deletion or insertion of programs or data.

2. Whoever commits the offense of computer fraud and is found guilty or pleads guilty shall be assessed a fine not to exceed One Thousand Dollars (\$1,000.00), serve a jail term not to exceed one (1) year or both.

SECTION 3-3-3 OFFENSE AGAINST COMPUTER USERS; PENALTIES

1. An offense against computer users is the intentional:

- a. Denial to an authorized user, without consent, of the full and effective use of or access to a computer, a computer system, a computer network or computer services;
- b. Use or disclosure to another, without consent, of the numbers, codes, passwords or other means of access to a computer, a computer system, a computer network or computer services.

2. Whoever commits an offense against computer users and is found guilty or pleads guilty to such an offense shall be assessed a fine not to exceed One Thousand Dollars (\$1,000.00) or serve a jail term not to exceed one (1) year.

SECTION 3-3-4 OFFENSE AGAINST COMPUTER EQUIPMENT; PENALTIES

1. An offense against computer equipment or supplies is the intentional modification or destruction, without consent, of computer equipment or supplies used or intended to be used in a computer, computer system or computer network.

2. Whoever commits an offense against computer equipment or supplies and is found guilty or pleads guilty to such an offense shall be assessed a fine not to exceed One Thousand Dollars (\$1,000.00) or serve a jail term not to exceed one (1) year.

SECTION 3-3-5 OFFENSE AGAINST INTELLECTUAL PROPERTY; PENALTIES

1. An offense against intellectual property is the intentional:

- a. Destruction, insertion or modification, without consent, of intellectual property; or
- b. Disclosure, use, copying, taking or accessing, without consent or intellectual property.

2. Whoever commits an offense against intellectual property and is found guilty or pleads guilty to such an offense shall be assessed a fine not to exceed One Thousand Dollars (\$1,000.00) or serve a jail term not to exceed one (1) year.

SECTION 3-3-6 VENUE

For the purposes of venue, under the provisions of this chapter, any violation of this chapter shall be considered to have been committed within the Jemez Pueblo Indian Reservation.

1. In the county in which any act was performed in furtherance of any transaction violating this chapter; and

2. In the county from which, to which or through which any access to a computer, computer system or computer network was made, whether by wire, electromagnetic waves, microwaves or any other means of communication.

SECTION 3-3-7 EFFECT ON OTHER OFFENSES

The criminal offenses created by this chapter shall not be deemed to supersede, or repeal, any other criminal offense.