



TRIBAL COUNCIL RESOLUTION NO. 2023 -02

**AMENDING THE PUEBLO OF JEMEZ TAX ORDINANCE
TITLE IX, CHAPTER 3 – GROSS RECEIPTS TAX AND
ESTABLISHING THE GROSS RECEIPTS TAX RATE**

At a duly called meeting of the Tribal Council of the Pueblo of Jemez on the 24th day of March 2023, the following resolution was adopted:

WHEREAS, the Pueblo of Jemez (“Pueblo”) is a federally recognized sovereign tribal government with a Governor and Tribal Council empowered to exercise all government powers, fiscal authority and tribal sovereignty; and

WHEREAS, the Pueblo of Jemez has enacted a Tax Ordinance with specific provisions at Chapter 3 relating to the assessment and collection of gross receipts taxes on transactions occurring within the Pueblo’s lands; and

WHEREAS, on March 30, 2021, the Pueblo entered into a Cooperative Agreement with the New Mexico Taxation and Revenue Department (“TRD”) to provide for the administration of gross receipts taxes imposed by both entities on certain taxable transactions occurring on the Pueblo’s lands; and

WHEREAS, pursuant to Section 9-3-3.B. of the Pueblo’s Gross Receipts Tax Ordinance, the Pueblo’s gross receipts tax rate must adjust automatically to correspond to the total gross receipts tax rate imposed by the State of New Mexico and any local option district within Sandoval County; and

WHEREAS, the State of New Mexico reduced its gross receipts tax rate in 2022 and has introduced legislation, HB 547, to reduce its gross receipts tax rate over the next four (4) years starting in July 2023; and

WHEREAS, as a result of the previous reduction in the State’s gross receipts tax rate, the Pueblo’s gross receipts tax rate automatically adjusted downward resulting in a reduction in tax revenue generated on the Pueblo’s lands; and

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. 2023 -02
AMENDING THE PUEBLO OF JEMEZ TAX ORDINANCE
TITLE IX, CHAPTER 3 – GROSS RECEIPTS TAX AND
ESTABLISHING THE GROSS RECEIPTS TAX RATE
PAGE TWO

WHEREAS, SB 147 has been introduced which would allow tribes and tribal entities that have cooperative tax agreements with the State of New Mexico to set their own tribal gross receipts tax rate regardless of the State's gross receipts tax rate; and

WHEREAS, in the event that HB 547, the legislation to reduce the State's gross receipts tax rate, and SB 147, the legislation that allows a tribe to set its own gross receipts tax rate, are signed into law, there is the need to set the Pueblo's tax rate based on circumstances within the Pueblo as opposed to being tied to the State's gross receipts rate; and

WHEREAS, the State only allows changes to a gross receipts tax rate twice a year due to notice and publication requirements; and

WHEREAS, to become effective July 1, 2023, any amendments must be submitted and executed by a tribe and the Taxation and Revenue Department Secretary by March 30, 2023, which may be before the Governor of New Mexico signs the applicable tax legislation into law; and

WHEREAS, the Tribal Council finds that the Pueblo's Gross Receipts Tax Ordinance be amended to allow the Tribal Council to establish the gross receipts tax rate as deemed necessary and at such times to coincide with the deadlines for changes pursuant to the Cooperative Tax Agreement with the State; and

WHEREAS, the Tribal Council also finds it is in the best interest of the Pueblo that the Pueblo establish its gross receipts tax rate at 6.25%, and that such rate become effective July 1, 2023, contingent upon the applicable State gross receipts tax rate legislation being signed into law.

NOW THEREFORE BE IT RESOLVED THAT the Tribal Council approves the amendment to the Pueblo's Gross Receipts Tax as shown on the attached document; and

BE IT FURTHER RESOLVED that the Tribal Council approves the establishment of the Pueblo's Gross Receipts Tax Rate at 6.25% to be effective July 1, 2023; and,

BE IT FURTHER RESOLVED that the amendment of the Pueblo's Gross Receipts Tax Ordinance and the establishment of the Pueblo's Gross Receipts Tax Rate is contingent upon the applicable State gross receipts tax rate legislation being signed into law; and

BE IT FINALLY RESOLVED that the Governor is authorized to make any non-substantive changes to the Ordinance as deemed appropriate and take all actions necessary to effectuate the intent of this Resolution.

Office of the Governor

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

CERTIFICATION

I, THE UNDERSIGNED, as Governor of Pueblo of Jemez do hereby certify that the Jemez Tribal Council at a duly called meeting which was convened and held on the 24th day of March 2023, at Pueblo of Jemez, New Mexico, approved the foregoing resolution that a quorum was present and that 8 voted for and 0 opposed and 0 abstained.



Dominic Gachupin, Governor

ATTEST: 

Lieutenant Governor

TRIBAL COUNCIL:



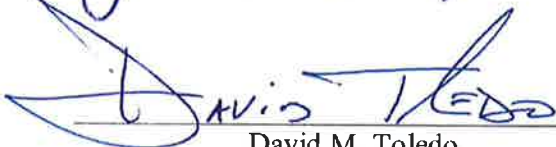
Joe Cajero



Joshua Madalena



Paul S. Chinana




David M. Toledo

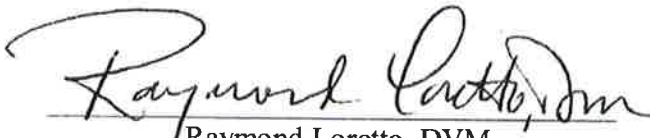
Raymond Gachupin

Jose Toledo


J. Leonard Loretto



Joseph A. Toya



Raymond Loretto, DVM



Vincent A. Toya

James Roger Madalena



David Yepa

Office of the Governor



TRIBAL COUNCIL RESOLUTION NO. 2021- 06
AMENDING THE PUEBLO OF JEMEZ TAX ORDINANCE
TITLE IX, CHAPTER 3 – GROSS RECEIPTS TAX

At a duly called meeting of the Tribal Council of the Pueblo of Jemez on the 12th of March, 2021, the following resolution was adopted:

WHEREAS, the Pueblo of Jemez is a federally recognized sovereign tribal government with a Governor and Tribal Council empowered to exercise all governmental powers, fiscal authority and tribal sovereignty; and

WHEREAS, the Pueblo of Jemez through Tribal Council Resolution No. 95-47 amended in its entirety the Pueblo of Jemez Tax Ordinance of 1986 which included amendments to authorize assessment of gross receipts taxes on all transactions conducted within the exterior boundaries of the Jemez Pueblo Reservation; and

WHEREAS, the Pueblo of Jemez Tax Ordinance, Title IX, Chapter 3 - Gross Receipts Tax needs to be amended further in order for the Pueblo to enter into a Cooperative Tax Agreement with the New Mexico Taxation and Revenue Department; and

WHEREAS, the amendments to the Pueblo of Jemez Tax Ordinance, Title IX, Chapter 3 – Gross Receipts Tax have been presented and explained to the Tribal Council for consideration and approval and the Tribal Council deems it to be in the best interest of the Pueblo to approve the amendments.

NOW THEREFORE BE IT RESOLVED THAT the Pueblo of Jemez Tribal Council adopts the amendments to TITLE IX, Chapter 3 – Gross Receipts Tax, attached hereto as Exhibit A.

BE IT FURTHER RESOLVED THAT TITLE IX Chapter 3 – Gross Receipts Tax as amended shall become effective immediately.

Office of the Governor

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

CERTIFICATION

I, THE UNDERSIGNED, as Governor of Pueblo of Jemez do hereby certify that the Jemez Tribal Council at a duly called meeting which was convened and held on the 12th day of March 2021, at Pueblo of Jemez, New Mexico, approved the foregoing resolution that a quorum was present and that 6 voted for and 0 opposed and 0 abstained.

Michael Toledo Jr.

Michael Toledo, Jr. Governor

ATTEST:

[Signature]
Lieutenant Governor

TRIBAL COUNCIL:

Joe S. Cajero
Joe Cajero

Joshua Magdalena

Paul S. Chinana
Paul S. Chinana

Jose Toledo

Raymond Gachupin

David M. Toledo
David M. Toledo

Frank Loretto

Paul Tosa
Paul Tosa

J. Leonard Loretto
J. Leonard Loretto

Joseph A. Toya

Raymond Loretto, DVM

Vincent A. Toya, Sr.

James Roger Madalena
James Roger Madalena

David R. Yepa

Office of the Governor

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



PUEBLO of JEMEZ

TRIBAL COUNCIL RESOLUTION NO. 2018- 38
RESOLUTION TO AMEND TITLE IX PUEBLO OF JEMEZ TAX ORDINANCE
SECTION 9-3-1 IMPOSITION AND RATE OF TAX; GROSS RECEIPTS

At a duly called meeting of the Tribal Council of the Pueblo of Jemez on the 21st day of December 2018, the following resolution was adopted:

WHEREAS, the Pueblo of Jemez is a federally recognized sovereign tribal government with a Governor and Tribal Council empowered to exercise all government powers, fiscal authority and tribal sovereignty; and

WHEREAS, the Pueblo of Jemez is a federally recognized sovereign tribal government with a Governor and Tribal Council empowered to initiate and carry out programs for the benefit of the Jemez tribal members; and

WHEREAS, the Tribal Council on December 22, 1986, pursuant to Resolution 86-37, enacted the first Pueblo of Jemez Tax Ordinance, Chapters 1 and 2 to become effective immediately; and

WHEREAS, the Tribal Council on July 19, 1995 passed Resolution No. 95-32 adopting a gross receipts tax ordinance and making it part of the Jemez Pueblo Tax Ordinance; and

WHEREAS, Resolution 95-32 authorized the Pueblo of Jemez to impose gross receipts tax on activities conducted within the exterior boundaries of the Pueblo of Jemez and made such collections of taxes effective December 1, 1994; and

WHEREAS, the Tribal Council on December 19th, 1995, were presented with amendments to the entire Pueblo of Jemez Tax Ordinance of 1986 and pursuant to Tribal Council Resolution No. 95-47 adopted the amendments as the new Tax Ordinance of the Pueblo of Jemez making it retroactive to December 1, 1994; and

WHEREAS, the new Tax Ordinance included a provision for the imposition of a gross receipts tax rate of 4%; and

WHEREAS, the Tribal Council has reviewed and considered the gross receipts tax rate of 4%, and has determined it to be in the best interest of the Pueblo of Jemez to amend and increase the gross receipts tax rate.

Office of the Governor

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

NOW THEREFORE BE IT RESOLVED THAT the Pueblo of Jemez Tax Ordinance, Title IX, Section 9-3-1 (A) is hereby amended to increase the gross receipts tax rate to 6.375% effective January 1, 2019.

BE IT FURTHER RESOLVED the Pueblo of Jemez gross receipts tax rate shall automatically adjust to correspond to any change in the gross receipts tax rate for the remainder of Sandoval County as shown on the semi-annual State of New Mexico Taxation and Revenue tax rate schedules.

BE IT FURTHER RESOLVED THAT such adjustment in the Pueblo of Jemez gross receipts tax rate shall be effective on the same date as the effective date of the change in the State's gross receipts tax rate.

BE IT FINALLY RESOLVED THAT the Pueblo of Jemez Tribal Council authorizes the Governor, Lieutenant Governors, Tribal Administrator, Assistant Tribal Administrator and appropriate Tribal Administrative Services staff to implement adjustments to the gross receipts tax rate to correspond to any change in the gross receipts tax rate for the remainder of Sandoval County as shown on the semi-annual State of New Mexico Taxation and Revenue tax rate schedules.

Office of the Governor

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

CERTIFICATION

I, THE UNDERSIGNED, as Governor of Pueblo of Jemez do hereby certify that the Jemez Tribal Council at a duly called meeting which was convened and held on the 21st day of December 2018, at Pueblo of Jemez, New Mexico, approved the foregoing resolution that a quorum was present and that 10 voted for and 0 opposed and 1 abstained.

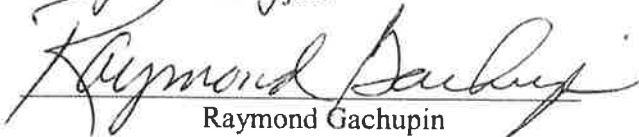

Paul S. Chinana, Governor

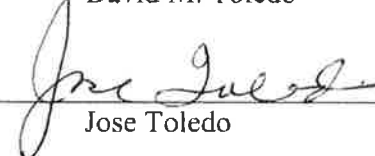
ATTEST: 
Lieutenant Governor

TRIBAL COUNCIL:



Joe Cajero

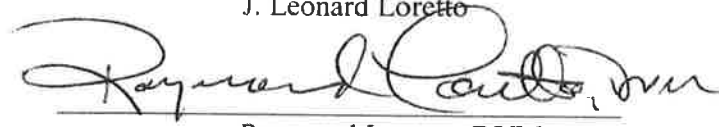
David M. Toledo

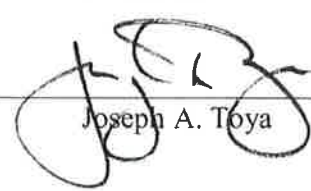

Raymond Gachupin

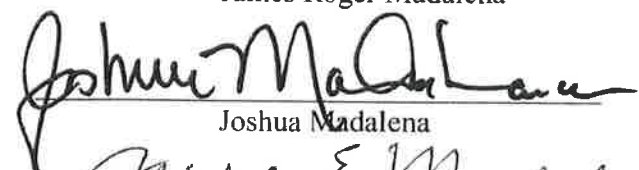

Jose Toledo

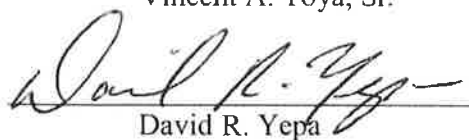

Frank Loretto

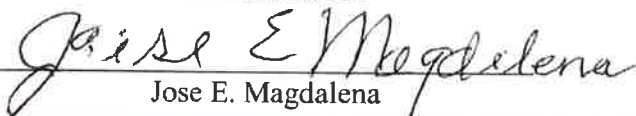

Michael Toledo, Jr.

J. Leonard Loretto

Raymond Loretto, DVM

Paul Tosa

Joseph A. Toya

James Roger Madalena

Joshua Madalena

Vincent A. Toya, Sr.

David R. Yepa


Jose E. Magdalena

Office of the Governor



TRIBAL COUNCIL RESOLUTION NO. 2010 - 26

ADOPTING TRIBAL CIGARETTE TAX

WHEREAS, the Pueblo of Jemez is a federally recognized Indian Tribe with inherent powers of self-government; and

WHEREAS, the Tribal Council is vested with all powers, authority and responsibility for the governmental activities of the Pueblo and has full power and authority to enact tax laws to raise revenues to aid in defraying the necessary and ordinary expenses of the Pueblo, and

WHEREAS, the Tribal Council has determined it is in the best interests of the Pueblo to enact a Tribal Cigarette Tax on the sales of cigarettes within the Pueblo's lands.

NOW THEREFORE BE IT RESOLVED that the Tribal Council hereby adopts the attached Cigarette Tax Ordinance, and

BE IT FURTHER RESOLVED that the Tribal Council hereby authorizes and directs the Governor or his designee, to take such actions as deemed necessary to carry out the intent of this Resolution and the Pueblo of Jemez Cigarette Tax.

Office of the Governor

PO Box 100 • Jemez Pueblo • New Mexico • 87024
(575) 834-7359 • Fax (575) 834-7331

CERTIFICATION

I, the undersigned, of the Pueblo of Jemez hereby certify that at a duly called meeting of the Tribal Council held on 11th day of June 2010, the foregoing resolution was passed, a quorum being present and that 13 voted for with 0 opposed and 0 abstained.


Governor Joshua Madalena

ATTEST: 
1st Lt. Governor

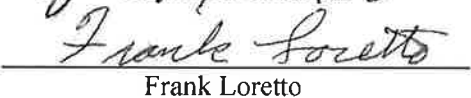
TRIBAL COUNCIL:

Candido Armijo

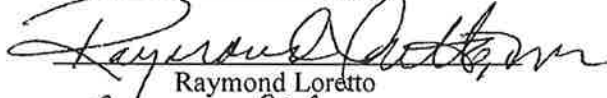

Joe Cajero


Paul S. Chinana


Raymond Gachupin

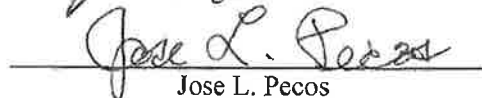

Frank Loretto

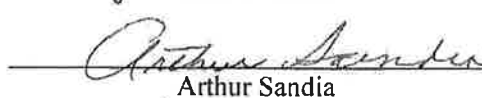
J. Leonard Loretto

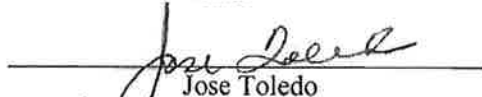

Raymond Loretto


José E. Magdalena

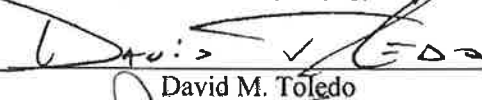

Roger Madalena


Jose L. Pecos


Arthur Sandia


Jose Toledo


Michael Toledo Jr.


David M. Toledo


Paul Tosa

Vincent A. Toya, Sr.

Office of the Governor

4471 Highway 4, Box 100 • Jemez Pueblo • New Mexico • 87024
(505) 834-7359 • Fax (505) 834-7331



PUEBLO of JEMEZ

RESOLUTION No. 95-47

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

WHEREAS, on December 22, 1986, by Tribal Council Resolution No. 86-37, the Pueblo of Jemez passed the Pueblo of Jemez Tax Ordinance; and

WHEREAS, the Pueblo of Jemez Tax Ordinance created a Tax Administrator, a Tax Commission and a ~~Tax Review Authority~~ to enforce and administer all tribal tax laws relating to the collection of possessory interest taxes within the Jemez Pueblo Reservation; and

WHEREAS, the Jemez Tribal Council, on July 19, 1995, passed a Resolution No. 95-32, adopting a gross receipts tax ordinance and making it a part of the Jemez Pueblo Tax Ordinance; and

WHEREAS, Resolution 95-32 authorized the Pueblo of Jemez to impose gross receipts tax on activities conducted within the exterior boundaries of the Jemez Pueblo Reservation and made such collection of taxes effective December 1, 1994; and

WHEREAS, after further review of the gross receipts tax ordinance, the Tribal Council deems it to be in the best interest of the Pueblo for efficient administration and collection of taxes to amend in its entirety the Jemez Pueblo Tax Ordinance of 1986; and

WHEREAS, the Pueblo of Jemez Tribal Council has been presented, reviewed and commented upon the ordinance amending the Jemez Pueblo Tax Ordinance of 1986.

NOW THEREFORE BE IT RESOLVED, that the Tax Ordinance, as mended, and as attached hereto as Exhibit A is and shall be the new tax ordinance of the Pueblo of Jemez.

BE IT FURTHER RESOLVED, that the amendments to the Jemez Pueblo Tax Ordinance shall be effective retroactive to December 1, 1994.

Office of the Governor

PO Box 100 • Jemez Pueblo • New Mexico 87024
(505) 834-7359 • Fax (505) 834-7331

CERTIFICATION

I, the undersigned, as the Governor of the Pueblo of Jemez do hereby certify that the Jemez Tribal Council at a duly called meeting, convened on the 19th day of December, 1995, at the Pueblo of Jemez approved the foregoing resolution that a quorum was present and that 08 voted for and 00 opposed.

Paul S. Chenera
Governor

ATTEST:

Vincent H. Toya
Councilman

Frank Loretto
Councilman

Rosendo Gachupin
Councilman

Arthur Sanchez
Councilman

Jose L. Pecos
Councilman

Jose E. Magdalena
Councilman

Canida Cernija
Councilman

Ju. V. Cajun
Councilman

Jose R. Toledo
Councilman

Councilman

Councilman



RESOLUTION NO.- 95-32

APPLICATION OF PUEBLO OF JEMEZ GROSS RECEIPTS TAX
ON CONSTRUCTION PROJECTS ON JEMEZ PUEBLO LANDS

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

WHEREAS, on December 1, 1994, the Pueblo of Jemez Tribal Council enacted the Pueblo of Jemez Tax Ordinance to impose gross receipts taxes on activities conducted within the exterior boundaries of the Pueblo of Jemez Reservation ("Reservation"); and

WHEREAS, such taxes became effective on December 1, 1994

WHEREAS, many construction contractors who have been awarded contracts do business on the Reservation and who have calculated such taxes into bids are not currently reporting or paying the gross receipts taxes; and

WHEREAS, the Pueblo is losing revenues from the non-collection of such gross receipts taxes;

NOW, THEREFORE, BE IT RESOLVED that the Tax Administrator is directed to distribute copies of the Ordinance to all contractors known to be subject to the Gross Receipts Tax; and

BE IT FURTHER RESOLVED, that, the Tax Administrator may use all methods and authority granted him under the Ordinance to force compliance with the Ordinance.

Office of the Governor

PO Box 100 • Jemez Pueblo • New Mexico 87024
(505) 834-7359 • Fax (505) 834-7331

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

I, the undersigned, as the Governor of the Pueblo of Jemez do hereby certify that the Jemez Tribal Council at a duly called meeting which was convened on the 19th day of July, 1995 at the Pueblo of Jemez, approved the foregoing resolution, that a quorum was present, and that the vote was 10 in favor with 00 opposed.

Paul S. Chinoza
Governor

ATTEST:

Rosendo Gachupin
Tribal Councilman

Joe V. Cayan
Tribal Councilman

Jose L. Pecore
Tribal Councilman

[Signature]
Tribal Councilman

Frank Loretto
Tribal Councilman

Araceli Arvizu
Tribal Councilman

Arthur Sanchez
Tribal Councilman

Joe E. Magdelena
Tribal Councilman

Jose J. Jaceo
Tribal Councilman

[Signature]
Tribal Councilman



RESOLUTION NO. 86- 37

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

WHEREAS the Tribal Council of the Pueblo of Jemez realizes that it must, of its own initiative, raise revenues sufficient to support its own government and to provide essential services for its tribal members, and

WHEREAS the Tribal Council recognizes the sovereign right of the tribal government to impose certain taxes on those persons or entities having possessory or property rights or conducting business activities within the Jemez Reservation boundaries, and

WHEREAS the Tribal Council of the Pueblo of Jemez has given due consideration to the Pueblo of Jemez Tax Ordinance, Chapter 1, TAX ADMINISTRATOR, TAX COMMISSION, AND TAX REVIEW AUTHORITY, and Chapter 2, POSSESSORY TAXES -- UTILITIES, and the Council has concluded that it would be in the best interests of the Pueblo of Jemez if the same were to be made the law of the Pueblo,

NOW, THEREFORE, BE IT ORDAINED AND RESOLVED that the Pueblo of Jemez Tax Ordinance, Chapter 1, TAX ADMINISTRATOR, TAX COMMISSION, AND TAX REVIEW AUTHORITY, and Chapter 2, POSSESSORY TAXES -- UTILITIES, be the policy and law of the Pueblo of Jemez, effective immediately.

BE IT FURTHER RESOLVED that the Governor be, and he hereby is, authorized and directed to execute all documents and take whatever actions necessary and proper to carry out the intent of this resolution and of the Pueblo of Jemez Tax Ordinance.

CERTIFICATION

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 of the Pueblo of Jemez, held on the 22 day of December, 1986, at which a quorum was present, with 6 voting for and 0 opposing said resolution

Attest:

Governor

PUEBLO OF JEMEZ TAX ORDINANCE

TITLE IX

CHAPTER 1 TAX ADMINISTRATOR AND TAX COMMISSION

SECTION 9-1-1 DEFINITIONS

For the purpose of this Title:

- A. The term "Administrator" is defined to mean the Tax Administrator of the Pueblo of Jemez.
- B. The term "Assessment date" is defined to mean each January 1st.
- C. The term "business" is defined to mean an activity engaged in for the purpose of direct or indirect benefit, gain, or advantage.
- D. The term "buying or selling" is defined to mean any transfer of property for consideration or any performance of service for consideration.
- E. The term "Commission" is defined to mean the Pueblo of Jemez Tax Commission.
- F. The term "Council" is defined to mean the Pueblo of Jemez Tribal Council.
- G. The term "gross receipts" is defined to mean the total amount of money or value of other consideration received from performing services or selling goods or property within the exterior boundaries of the Pueblo of Jemez, including but not limited to leasing of spaces for placement of mobile homes; and leasing property employed within the exterior boundaries of the Pueblo of Jemez; and includes any receipts from sales of tangible property handled on consignment, but excludes cash discounts allowed and taken, and excludes any gross receipts or sales tax imposed by the State of New Mexico or its political subdivisions, provided that such entity provides for a reciprocal exclusion for gross receipts or sales taxes imposed by the Pueblo of Jemez.
- H. The term "Indian" is defined to mean an individual who is a member, either enrolled or eligible for enrollment, of any federally recognized Indian tribe.
- I. The term "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.
- J. The term "owner" is defined to mean any person who owns or enjoys a possessory

interest, whether of the whole interest or less than whole.

K. The term "person" is defined to mean and include any individual, company, partnership, firm, joint venture, association, club, corporation, estate, trust, or political entity.

L. The term "possessory interest" is defined to mean and include the interest and rights in property within tribal boundaries obtained by leases, rights-of-way, easements, permits, occupancy (whether authorized or not), and improvements and additions thereon.

M. The term "Reservation" is defined to mean and include all the lands within the exterior boundaries of the Pueblo of Jemez notwithstanding the issuance of any patent, and including rights-of-way running through the Reservation; and all Jemez Indian fee lands, titles to which have not been extinguished, including rights-of-way running through such fee lands.

N. The term "taxpayer" is defined to mean and include a person who pays a tax, who is subject to and liable for a tax, or who has property which has been assessed for taxation purposes.

O. The term "utility" is defined to mean and include any business or service which is engaged in regularly supplying some commodity or service of public consequence. Without limiting the generality of the foregoing, "utility" shall specifically include any business or service relating to cable television or other telecommunication lines, railroads, gas lines, telephone lines, telegraph lines, electrical transmission lines, sewer lines, and water lines.

SECTION 9-1-2 POSITION OF ADMINISTRATOR CREATED

There is hereby created a position known as the Pueblo of Jemez Tax Administrator, possessing all powers, duties, rights, and functions hereinafter defined and as are now or may be hereinafter conferred by law.

SECTION 9-1-3 APPOINTMENT OF ADMINISTRATOR

The Administrator will be appointed by the Tribal Council of the Pueblo of Jemez and will serve at the pleasure of the Council.

SECTION 9-1-4 POWERS OF THE ADMINISTRATOR

The Administrator will be charged with the administration and enforcement of all tax laws of the Pueblo of Jemez and incidental thereto shall have the power to:

A. Assess, collect, and issue receipts for such taxes as are imposed by ordinance and to bring actions on behalf of the Pueblo in any appropriate court for the collection of tribal taxes, penalties, and interest.

B. Examine and investigate the places of business, equipment, facilities, tangible personal property, books, records, papers, vouchers, accounts, documents, and financial statements of any taxpayer.

C. Compromise, negotiate and settle claims arising from the application of tax laws of the Pueblo of Jemez.

D. Prepare and make available to taxpayers and others, standard forms to carry out the intent of tax laws and regulations of the Pueblo of Jemez.

E. Appear in proceedings before the Commission and present witnesses and evidence.

F. Provide to taxpayers, upon request, copies of rules, rulings, and regulations affecting the tax liability of such taxpayers.

G. Employ personnel and grant them authority as he deems necessary, and incur such expenses as he deems necessary to discharge his duties, all subject to approval or ratification by the Council.

H. Consult with the Council on the preparation of a proposed budget for the expenditure of tax revenues.

I. Exercise all other authority delegated by law, or as may reasonably be necessary in the administration or enforcement of any tax laws of the Pueblo of Jemez.

J. Prepare such proposed regulations and amendments thereto as may be necessary and convenient for the furtherance and enforcement of any tax laws of the Pueblo of Jemez.

SECTION 9-1-5 RECORDS

A. The Administrator shall keep and maintain accurate and complete records which reflect all taxes, penalties, and interest levied, due, and paid; assessments, notices, and all other official transactions, correspondence or actions by the Administrator and responses, if any, from taxpayers.

B. Such records shall be subject to audit at any time, upon the direction of the Council.

C. All records relating to taxpayers shall be confidential and not open to public inspection; however, a taxpayer will be given access to records relating to his tax liability.

SECTION 9-1-6 BOOKKEEPING

The Tribal Finance Director shall keep and maintain such financial records and books as may be necessary to account adequately for all taxes and other monies received, using generally accepted accounting standards. Separate books and accounts will be maintained for each type of tax imposed.

SECTION 9-1-7 BONDING

The Administrator must be covered by an adequate fidelity bond, and the Council may require that additional employees be covered by similar bonds.

SECTION 9-1-8 OFFICE OF ADMINISTRATOR

The Office of the Administrator will be located at the tribal office building at the Pueblo of Jemez, New Mexico. The office will be open during normal working hours to accept payments, filings, reports, notices, and other communications or materials.

SECTION 9-1-9 COLLECTION OF TAXES

A. The Administrator is authorized to bring any necessary actions for the collection of any taxes penalties, or interest assessed and unpaid. Such actions shall be civil in nature, and all penalties and interest shall be in the form of civil damages for non-payment of taxes. All civil remedies provided for in federal, state, or tribal law shall be available to the Administrator.

B. The Administrator, with prior written approval of the Council, may take action to forfeit and cancel easements, rights-of-way, leases, and other rights in order to enforce collection of taxes, penalties, and interest.

C. The Administrator is empowered to foreclose any lien imposed on any property for non-payment of taxes.

SECTION 9-1-10 TAX COMMISSION CREATED

There is hereby created a body known as the Pueblo of Jemez Tax Commission, which shall be a governmental agency of the Pueblo of Jemez, possessing all of the powers, duties, rights, and functions herein defined and as are now and may be hereinafter conferred by law.

SECTION 9-1-11 COMPOSITION OF THE COMMISSION; TERM

A. The Tribal Council of the Pueblo of Jemez shall:

1. Appoint three (3) persons to serve as members of the Pueblo of Jemez Tax

Commission for terms of four (4) years, the beginning date of terms to be specified by the Tribal Council. The Council may appoint one of its tribal council members to serve as a member of the Commission.

2. Select a Chairman and a Secretary-Treasurer of the Commission.

3. Appoint replacements in the event of vacancies or resignations by a member of the commission.

B. If the Council does not appoint a Commission, the Governor of the Pueblo will make all decisions in accordance with powers specified in Section 9-1-12 .

SECTION 9-1-12 POWERS OF THE COMMISSION; DUTIES; LIMITATIONS

The Commission shall have the power and authority, in the enforcement of the tax laws of the Pueblo of Jemez, to:

A. Supervise the Tax Administrator;

B. Conduct hearings to resolve appeals by taxpayers from decisions of the Tax Administrator; administer oaths, cross-examine the taxpayer, his agents, or any other witness, and by subpoena, compel the attendance of witnesses and the production of any books, records, and papers of any taxpayer, his agents or witnesses.

C. Issue written opinions or rulings of the Commission's decisions on matters appealed by the taxpayer.

D. Recommend to the Council proposed regulations and amendments to the tax laws of the Pueblo of Jemez;

E. The Commission shall not participate or interfere in any administrative action or unduly influence a decision of the Administrator.

F. If a Governor or a tribal council member is serving as a member of the Commission, the governor shall not participate in any appeals to the Jemez Tribal Court, pursuant to Section 9-1-16 and the tribal council member shall not participate in any appeals to the Tribal Council pursuant to Section 9-1-17 of this ordinance.

SECTION 9-1-13 RULEMAKING AUTHORITY

A. The Commission may publish proposed regulations in order to provide interested parties an opportunity to comment. Notice of opportunity to comment will be published and the text made available as described herein. The notice will invite written comments to the proposed

regulations. Comments must be submitted not more than ten (10) days after the last publication of the notice. The Commission in its discretion may hold public hearings on the proposed regulations.

B. Publication of a notice requires publication in the legal section of the local newspaper at least once a week for three (3) consecutive weeks and further requires a posting of the notice in conspicuous public places on the Reservation. The notice shall identify or otherwise describe the terms and conditions of the new regulations and announce the time and place for the hearing to comment on the proposed regulation.

C. A regulation will become effective thirty (30) days after approval of the regulation by the Council. A copy of the regulations will be filed and made available to the public at the Office of the Administrator at the following address: Tax Administrator, P.O. Box 100, Jemez Pueblo, NM 87024.

D. Failure to publish notice and provide opportunity to comment shall not invalidate any regulation or rule.

SECTION 9-1-14 FORMAL CONFERENCE WITH ADMINISTRATOR

A. Any taxpayer may request a Formal Conference with the Administrator for a matter relating to assessment or valuation. The request must be in writing and must state with particularity the basis of the taxpayer's claim that an action or decision of the administrator is erroneous. Such written request must be filed with the Administrator within thirty (30) days from Assessment Date (Ad Valorem Tax), from the last day of the month in which the disputed amounts are due (Gross Receipts Tax), or from the date of receipts by the taxpayer of any notice, assessment, or valuation from the Administrator. The Administrator must grant the taxpayer's request for a formal conference. The taxpayer will be given not less than five (5) days' notice of the Formal Conference, and will be afforded the opportunity to present testimony and other evidence and to question witnesses. Formal rules of evidence will not apply; the Administrator may accept such evidence as he finds relevant and credible. The Administrator will mail a copy of his Formal Conference Decision, certified mail, return receipt requested, to the taxpayer not later than twenty (20) days following the conclusion of the Formal Conference.

B. The taxpayer may furnish a certified court reporter to make a verbatim written record of the Formal Conference, and, if transcribed, a copy of the transcripts will be furnished to be Administrator, all at the expense of taxpayer.

C. A taxpayer objecting to an assessment may avoid the imposition of interest and penalty only by paying the tax due under protest within the prescribed time.

D. If no appeal is made as provided in Section 9-1-15, the Formal Conference Decision will be final and will not be subject to any appeal to the Commission or to any Court.

SECTION 9-1-15 APPEAL TO COMMISSION

A. The taxpayer may appeal the Administrator's Formal Conference Decision within ten (10) days following the taxpayer's receipt of the Formal Conference Decision by filing a written Notice of Appeal with the Commission. A copy of the notice of appeal must be provided to the Tax Administrator. The Notice of Appeal must state with particularity the basis of the taxpayer's claim that an action of the Administrator is erroneous.

B. Upon receipt of the Notice of Appeal, the Administrator, within ten (10) days shall transfer all documents, materials, and evidence submitted at the formal conference to the Commission. The taxpayer may submit additional materials to the Commission within twenty (20) days of the filing of the appeal. The materials may include legal memorandum with supporting case law addressing the taxpayer's points on appeal. Upon receipt of the taxpayer's appeal materials, the Administrator shall have twenty (20) days within which to file a responsive brief. The Commission may permit oral argument on the points raised in the parties legal briefs.

D. The Commission will review the record and consider all submissions. If the Commission finds that the Administrator's decision was supported by substantial evidence in the record and justified by applicable policies, rules, laws, and regulations, it shall affirm the Administrator's decision. If it finds to the contrary, it shall overturn the Formal Conference Decision and issue its own decision or remand the matter to the Administrator, together with directions for a rehearing.

E. The Commission will render a written decision as soon as practicable. A copy of the decision shall be mailed to the taxpayer, certified mail, return receipt requested.

F. If the Formal Conference Decision has been timely appealed to the Commission, payment of the disputed amount with penalties and interest may, at the discretion of the Commission, be stayed, pending the issuance of the Commission Decision.

SECTION 9-1-16 APPEAL TO THE JEMEZ TRIBAL COURT

A. Any party adversely affected by the decision of the Commission, may appeal the decision of the Tax Commission to the Jemez Tribal Court within thirty (30) days of the receipt of the Commission's Decision. If the taxpayer appeals the Commission's decision to the tribal court, the taxpayer must first provide full payment of the taxes determined by the Commission to be due and owing unless a stay has been granted by the Commission.

B. A written notice of appeal must be filed with the Jemez Tribal court clerk and a copy of the notice of appeal provided by the taxpayer to the Commission. An appeal to the Commission is a prerequisite administrative procedure to seeking an appeal to the Jemez Tribal Court. If no appeal is filed within the time allowed, the Commission Decision will become final and enforceable.

C. The Tribal Court will only consider the evidence in the record submitted at the appeal before the Commission; no new evidence will be permitted at the Tribal Court appeal.

SECTION 9-1-17 APPEAL TO THE TRIBAL COUNCIL

An appeal to the Jemez Tribal Court is a prerequisite administrative procedure to seeking an appeal to the Tribal Council. Any party appealing the decision of the Tribal Court, to the Tribal Council must comply with any and all Tribal Court procedures for such an appeal. The Tribal Council, in its discretion, may deny the appeal and summarily affirm the decision of the Tribal Court. If the Tribal Council decides to hear the appeal, oral arguments shall be presented by each party. The parties will not be permitted to submit new evidence at this hearing.

SECTION 9-1-18 SOVEREIGN IMMUNITY

Nothing herein shall be construed to waive or otherwise deprive the Administrator or the Commission, or any Commission members, employees, or agents, of the rights and protection afforded by the sovereign immunity of the Pueblo of Jemez.

SECTION 9-1-19 PROHIBITION OF SUITS

No suit to restrain the assessment or collection of the taxes imposed by this ordinance, as it may be amended from time to time, shall be maintained in any court by any person, whether or not the person is the one on whom such taxes were assessed.

SECTION 9-1-20 DISPOSITION OF TAX REVENUES; REFUNDS

A. All tax monies collected through enforcement of this Ordinance shall be deposited in an account separate from the General Fund of the Pueblo, and all such tax revenues shall be expended for public purposes only.

B. Taxes paid under protest will be deposited in an interest-bearing account separate from the general tax account(s).

C. If the Administrator or Commission finds that a taxpayer is entitled to a refund, the Administrator shall make the refund payment, together with any interest earned thereon from the date the payment was made to the date the overpayment is refunded.

D. If it shall appear subsequent to the receipt of tax proceeds by the Administrator that an amount of tax, penalty, or interest has been paid that was not due under the provisions of this Ordinance, whether as a result of a mistake of fact or of law, then such amount shall be credited against any tax due, or to become due, from the person who made the overpayment, or such amount may be refunded to such person, provided that a claim for refund must be filed within three (3) years of the collection of the overpayment, or said claim shall be forever barred.

SECTION 9-1-21 FAILURE OF NOTICE

Failure of the Administrator to mail or of a taxpayer to receive any notice, assessment, bill, or other communications will not affect the taxpayer's liability for a tax.

SECTION 9-1-22 FINES

Any person who files or furnishes any false information to the Administrator or the Commission, fails to pay taxes timely, or who otherwise violates any of the provisions of this Ordinance for the purpose of evading payment of taxes shall be assessed a fine of Five Hundred Dollars (\$500.00) or five percent (5%) of the amount of underpayment, if applicable, whichever is greater, for each such act, in addition to any other fines or penalties prescribed by law.

SECTION 9-1-23 INTEREST

All taxes, fees, or other charges not paid when due shall bear interest, from the date such taxes, fees, or charges become due until the date paid. Annual rates of interest shall be 15% unless otherwise established in regulations. Interest shall be imposed on any unpaid amount of tax from the date the payment was due, without regard to any extension of time or stay of payment, to the date payment is received.

SECTION 9-1-24 DESIGNATION OF INDIVIDUAL

Any owner, entity, business, or person engaged in business on the Jemez Pueblo reservation and subject to tax under this ordinance shall designate and provide to the Administrator the name and mailing address of their agent for service of notices and other papers as required under this ordinance

SECTION 9-1-25 EXTENSIONS

An owner or taxpayer may request for an extension of time within which to file a report or pay taxes. The request must be made to the Administrator in writing before the due date for the report or payment. The extension of time may be granted at the discretion of the Administrator.

SECTION 9-1-26 CONFIDENTIALITY

No employee or former employee of the Pueblo shall reveal to any individual other than another employee of the Pueblo any information contained in the return of any taxpayer made pursuant to this Ordinance, or any other information about any taxpayer acquired as a result of his or her employment by the Pueblo except:

1. To authorized representatives of an Indian nation, tribe, or pueblo, the territory of which is located wholly or partially within New Mexico, pursuant to the terms of a reciprocal

agreement entered into with the Indian nation, tribe, or pueblo for the exchange of such information for tax purposes only; provided that the Indian nation, tribe, or pueblo has enacted a confidentiality law similar to this subsection;

2. To an authorized representative of the State of New Mexico; provided that the State has entered into a written agreement with the Pueblo to use the information for tax purposes only and that the State has enacted a confidentiality law similar to this subsection;

3. To a representative of the Secretary of the United States Treasury pursuant to the terms of a reciprocal agreement entered into with the federal government for exchange of such information;

4. To the Tribal Court, a state court, or a federal court:

(A) in response to an order thereof in an action relating to taxes which the Administrator is a party and in which the information sought is material to the inquiry; or

(B) in any action in which the Administrator is attempting to enforce this Ordinance or to collect a tax or in any matter in which the taxpayer has put his or her own liability for taxes at issue;

5. To the taxpayer or to the taxpayer's authorized representative; provided, however, that nothing in this paragraph shall be construed to require any employee to testify in a judicial proceeding except as provided hereinabove;

6. Information obtained through the administration of any law not subject to administration and enforcement under this Ordinance to the extent that release of such information is not otherwise prohibited by law;

7. In such manner that the information revealed is not identified as applicable to any individual taxpayer;

8. To a purchaser of a business, the amount and basis of any unpaid assessment of tax for which the purchaser's seller is liable;

9. 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, or other land use contracts, if the Bureau of Indian Affairs agrees in writing that its employees shall be subject to the provisions of this Ordinance regarding confidentiality of information.

CHAPTER 2 POSSESSORY INTEREST TAXES

SECTION 9-2-1 AD VALOREM TAX ON POSSESSORY INTERESTS

A. There is hereby imposed and levied an ad valorem tax upon every possessory interest in utilities within the exterior boundaries of the Pueblo of Jemez. The tax will begin as of December 1, 1994. All owners of possessory interests existing within the exterior boundaries of the Pueblo of Jemez as of January 1 of each calendar year shall be liable for payment of this tax.

B. The tax imposed by this Chapter shall be referred to as the Ad Valorem Tax.

SECTION 9-2-2 INCIDENCE OF TAX

The incidence of the ad valorem tax imposed by this Chapter shall be upon the owner of the possessory interest being taxed.

SECTION 9-2-3 REPORTING REQUIREMENTS

Each owner of a possessory interest shall file a report with the Administrator on or before February 1 of each year. The Administrator will provide forms for the use of the owner in complying with the reporting requirement. This report shall contain the following:

- A. A description of the location of the possessory interest;
- B. A description of any improvement and additions thereon;
- C. A list of any related equipment kept within the exterior boundaries of the Pueblo;
- D. An itemized statement of the values of items, A, B, and C above.

SECTION 9-2-4 VALUATION

The value of a possessory interest shall be determined as provided in the "Instructions for Reporting and Paying the Pueblo of Jemez Ad Valorem Tax," as it may be amended from time to time; or as provided in the Jemez Tax Ordinance and regulations issued pursuant thereto.

SECTION 9-2-5 RATE OF TAX

The tax rate shall be established in regulations. Until another rate is established, the tax rate shall be five percent (5%) of net book value determined by the unit method of valuation.

SECTION 9-2-6 ASSESSMENT AND PAYMENT

A. Possessory interest shall be taxed annually as of the first day of January which shall be the Assessment Date. The Ad Valorem tax due should be mailed to and received by the Administrator on or before each February 1.

B. Ad Valorem taxes assessed shall be a lien against the possessory interest in favor of the Pueblo of Jemez. Such lien shall arise as of the due date of the tax, without notice or demand, and shall be prior and superior to all other liens and encumbrances upon the property.

C. Owners of possessory interests shall be liable for the ad valorem taxes, penalties, and interest assessed.

D. The Administrator shall have authority to redetermine incorrect or erroneous assessments, payment, or valuations.

E. Any tax or penalty due from a taxpayer shall be a lien in favor of the Pueblo of Jemez upon all property or rights to property, whether real or personal, belonging to the taxpayer, and upon any funds held to the credit of the taxpayer by the Bureau of Indian Affairs. In order to preserve the lien against subsequent mortgages, purchasers, or judgment creditors, for value and without notice of the lien, the Administrator may file with the Pueblo of Jemez Tribal Court, with the Superintendent of the Southern Pueblos Agency, and with any other court or governmental entity charged with the duty of maintaining lien records, a notice of said lien in such forms as may be required. The Administrator shall prepare and keep a register of such liens, including but not limited to the name of each taxpayer, date of notice, and time received, amount and when satisfied. A duplicate register may be maintained at the Southern Pueblos Agency.

F. After notice of the lien has been filed as provided hereinabove, the Administrator may apply to the appropriate court or courts for a distress warrant to collect the tax by seizure and sale of personal property of the taxpayer in accordance with applicable legal procedures. After such notice is filed, the Administrator is also authorized to apply to the Bureau of Indian Affairs for the payment of the amount due, or such lesser amount as may be held to the credit of such party by the Bureau of Indian Affairs. The tax so collected shall be remitted to the Administrator.

G. Upon payment of the tax interest and penalty, the Treasurer shall file with the Pueblo of Jemez Tribal Court, the Superintendent of the Southern Pueblos Agency and any other applicable court or governmental entity, a satisfaction of lien which shall be filed and recorded on the register(s) provided for hereinabove.

SECTION 9-2-7 EXEMPTIONS

No possessory interest which consists of a utility delivery or distribution facility or line

which serve exclusively the Pueblo of Jemez facility or line which serves exclusively the Pueblo of Jemez facilities or tribal members shall be subject to the ad valorem possessory interest tax.

CHAPTER 3 GROSS RECEIPTS TAXES

Section 9-3-1 Definitions. As used in this Chapter, the following terms mean:

- A. "Buying" or "Selling" means the transfer of property for consideration or the performance of service for consideration.
- B. "Construction Services" means the activities of building, altering, repairing or demolishing in the ordinary course of business any road, building, dam, sewage or water treatment facility, pipeline, transmission line, tower, storage tank, microwave station, wall or similar work. Also includes leveling, clearing, and grubbing of land, excavating earth, drilling wells or similar work. Also includes construction-related services of planning, architectural, design, survey, engineering, environmental and structural testing, security, sanitation and services necessary for a construction project. It does not include general business services such as legal or accounting.
- C. "Construction Material" means tangible personal property that becomes or is intended to become an ingredient or component part of a construction project.
- D. "Digital good" means a digital product delivered electronically, including software, music, photography, video, reading material and application and a ringtone.
- E. "Engaging in business" means carrying on or causing to be carried on any activity with the purpose of direct or indirect benefit. For a person who lacks physical presence in the Pueblo, including a marketplace provider, "engaging in business" means having, in the previous calendar year, total taxable gross receipts from sales, leases and licenses of tangible personal property, sales of licenses and sales of services and licenses for use of real property sourced to the State of New Mexico of at least one hundred thousand dollars (\$100,000).
- F. "Gross Receipts" are the total amount of money or value of other consideration received from selling goods or property, renting or leasing property, or from performing services within Pueblo lands. Includes receipts collected by a marketplace provider engaging in business in the Pueblo from sales, leases and licenses of tangible personal property, sales of licenses and sales of services that are sourced to the Pueblo and are facilitated by the marketplace provider on behalf of marketplace sellers, regardless of whether the marketplace sellers are engaging in business in the Pueblo; and
- G. "Leasing" means an arrangement whereby, for a consideration, property is employed for or by any person other than the owner of the property, except that the granting of a license to use property is licensing and is not a lease.
- H. "Marketplace Provider" means a person who facilitates the sale, lease or license of tangible personal property or services on a marketplace seller's behalf, or on the marketplace provider's own behalf, by:
- (1) listing or advertising the sale, lease or license, by any means, whether physical or electronic, including by catalog, internet website or television or radio broadcast; and

(2) either directly or indirectly, through agreements or arrangements with third parties collecting payment from the customer and transmitting that payment to the seller, regardless of whether the marketplace provider receives compensation or other consideration in exchange for the marketplace provider's services.

I. "Marketplace Seller" means a person who sells, leases or licenses tangible personal property or services through a marketplace provider.

J. "Property" means real property, tangible personal property, licenses, including licenses of digital goods, but not including the licenses of copyrights, trademarks or patents; and franchises.

K. "Pueblo lands" means the lands within the exterior boundaries of the Pueblo of Jemez and any lands hereinafter acquired by the Pueblo and held in trust.

L. "Service" means all activities engaged in for other persons for a consideration, which activities involve predominantly the performance of a service as distinguished from selling or leasing property.

Section 9-3-2 Imposition of Gross Receipts Tax.

For the privilege of engaging in business, a tax is imposed on any person engaging in business within Pueblo lands. To prevent the evasion of the gross receipts tax and to aid in its administration, it is presumed that all receipts of a person engaging in business within Pueblo lands are subject to the Gross Receipts Tax, unless specifically exempted from the tax as shown in Section 9-3-7.

Section 9-3-3 Rate of Tax.

A. The rate of the tax shall be equal to the gross receipts tax rate on the current semi-annual Gross Receipts Tax Rate Schedule provided by the New Mexico Department of Taxation and Revenue for the county, any local option tax district and tribal tax district where the business is located.

B. The rate established in subsection A. above shall be adjusted automatically effective as of January 1 and July 1 of each year to correspond to the total gross receipts, sales or similar tax rate imposed by the State of New Mexico and any local option tax districts of the State of New Mexico located within the County of Sandoval.

Section 9-3-4 Taxpayer Returns and Reports of Receipts.

A taxpayer who has receipts subject to this tax shall be required to report its taxable gross receipts for the following tax district:

District 1: Jemez Pueblo lands located in Sandoval County.

Section 9-3-5 Location of Taxable Transactions.

A. A taxable transaction takes place within Pueblo lands if the seller delivers possession of the property to the buyer within the Pueblo lands, or the sale is sourced to the Pueblo, or the sale of property occurs within the Pueblo lands, without regard to the location of the seller's permanent or principal place of business.

B. Construction services take place within Pueblo lands if they are performed on Pueblo lands without regard to the location of any office or other business activity of the taxpayer.

C. Performance of services takes place within Pueblo lands if they are performed on Pueblo lands without regard to the location of any other office or business activity of the taxpayer.

Section 9-3-6 Gross Receipts Tax Credit.

A. If a gross receipts, sales or similar tax has been levied by the State of New Mexico or a political subdivision thereof on a taxable transaction taking place within the Pueblo's lands, the amount of the state tax may be credited against any gross receipts tax due the Pueblo in the amount equal to the lesser of twenty-five percent (25%) of the Pueblo's gross receipts tax or twenty-five percent (25%) of tax revenue produced by the sum of the rate of tax imposed under the New Mexico Gross Receipts and Compensating Tax Act and the total of the rates of the local option gross receipts taxes imposed on the receipts from the same transaction; provided that the New Mexico Gross Receipts and Compensating Tax Act allows a credit for the lesser of seventy-five percent (75%) of the tax imposed by the Pueblo on the receipts from the transaction or seventy-five percent (75%) of the tax revenue produced by the sum of the rate of tax imposed pursuant to the Gross Receipts and Compensating Tax Act and the total of the rates of local option gross receipts taxes imposed on the receipts from the same transaction.

B. The Pueblo may enter into a cooperative agreement with the Secretary of the New Mexico Taxation and Revenue Department to carry out the provisions of this Chapter, provided that the agreement shall be valid only if approved by resolution of the Pueblo of Jemez Tribal Council.

Section 9-3-7 Exemptions. The Gross Receipts Tax shall not apply to:

A. Receipts of the Pueblo of Jemez or its tribal members, its governmental agencies or political subdivisions, provided this exemption does not apply to the receipts of a Pueblo-owned business or business entity.

B. Receipts of the United States, the State of New Mexico, or any agency, department or instrumentality, or political subdivision thereof, however, this exemption does not apply to the receipts of a contractor, or subcontractor of any such governmental entity engaged in business on Pueblo lands.

C. Receipts from the sale of gasoline or special fuel upon which a gasoline or special fuel excise tax has been paid to the Pueblo.

- D. Receipts from the sale of cigarettes or other products on which the Pueblo's cigarette or tobacco products tax has been paid.
- E. Receipts to tribal members from traditional Pueblo livelihoods, including but not limited to farming, livestock raising, bread making, traditional clothing, pottery making and other traditional artisans.
- F. Receipts from sale of tangible personal property at wholesale for later resale in the regular course of the buyer's business, where tax will be collected by a subsequent retailer that is subject to a gross receipts tax.
- G. Receipts from the sale of telecommunications services, electricity, water, natural gas, propane, and firewood for residential use of the buyer or members of the buyer's household.
- H. Receipts of an entity recognized by the Internal Revenue Service, as a charitable organization under Internal Revenue Code § 501(c)(3).
- I. Receipts of employees from wages or salaries, commissions, or any other form of compensation to employees for personal services to his or her employer.
- J. Receipts from sale of insurance premiums.
- K. Receipts from yard sales, or the isolated or occasional sale of or leasing of tangible personal property or a service by a person who is not regularly engaged in the business of selling or leasing the same or similar property or service.
- L. Receipts from the lease or rental of real property for residential purposes, including a mobile home lot.
- M. Receipts from the sale of construction materials or construction services for residential construction if the sale is to the occupant(s) of the tribal member's residence on Pueblo lands in which the construction materials or services will be incorporated.

Section 9-3-8 Authority to Issue Exemption from Tax; Tax Exempt Certificates.

- A. The Tax Administrator, upon Tribal Council approval, may issue an annual, temporary or project specific exemption from the tribal gross receipts tax, in whole or in part, only in extraordinary circumstances when such an exemption is necessary to protect or promote the general welfare, health, safety or interest of the Pueblo or its people; provided that granting such a limited exemption would not otherwise violate federal law.
- B. The Tax Administrator may issue certificates to taxpayers documenting exemptions allowed by this subsection, or to confirm other exemptions identified in Section 9-3-8.

Section 9-3-9 Reporting and Payment of Tax.

- A. A person doing business within Pueblo lands who is subject to the gross receipts tax shall complete and file with the Pueblo a return for the preceding tax month on a form provided by the Pueblo providing such information as required. A person who has no taxable gross receipts shall not be required to file a tax return unless required by the Tax Administrator.

B. The return shall report the total taxable receipts received during the reporting month less any amounts refunded to the purchaser upon cancellation of a sale.

C. All taxes imposed by this Chapter are due and payable on or before the twenty-fifth (25th) day of the calendar month immediately following the month in which the receipts were received. A payment of the amount of gross receipts tax due shall accompany the return for that reporting period.

PUEBLO OF JEMEZ TAX COMMISSION

INSTRUCTIONS FOR REPORTING AND PAYING

A. Property to be Reported.

All Property located within the Pueblo of Jemez used in the Conduct of the following businesses is required to be reported to the Pueblo of Jemez Tax Commission (hereinafter "Commission"):

1. Electric Utility; including an electric generating plant, whether or not owned by a public utility, if all or part of the electricity is generated for ultimate sale to the consuming public;
2. Telephone, Telegraph, or Microwave Utility; and
3. Pipeline and Gas Utility.

B. Property Valuation Day.

All property subject to valuation for property taxation purposes shall be valued as of January 1 of each calendar year.

C. Persons Preparing the Report.

Reports are to be prepared by the Lessee of the property used in the conduct of business; if the Lessee is a partnership, by a partner, if the Lessee is a corporation, by an officer. Any authorized agent preparing reports must attach proof of authorization of agency.

D. Reporting Requirements.

All reports submitted should be prepared from the books and records of the reporting entity. Every report is subject to verification by audit and appraisal. Reports and payments must be received by the Pueblo of Jemez Tax Administrator (hereinafter "Administrator") at Post Office Box 100, Jemez Pueblo, NM 87024, on or before the first day of February each year. If an extension of time for filing a report is requested in writing and approved by the Administrator, the time for filing of the report may be postponed. A copy of the Administrator's order granting extension must be returned with the prevent penalty. If the last day for submitting the report and making payment falls on Saturday, Sunday or a legal Pueblo, state or national holiday, filing is timely if received by the Administrator on the next work day.

E. **Where to Get Forms.**

Forms are available from the Administrator.

F. **Records Maintenance.**

Reporting requirements are authorized by the Pueblo of Jemez Tax Ordinance (“Tax Ordinance”) and applicable regulations. All reports must include a description of all property (real and personal) located within the exterior boundaries of the Pueblo of Jemez on January 1 of each year, the specific location of such property, the Southern Pueblos Agency lease number, if applicable, and a metes and bounds legal description for such property. Every reporting entity should maintain maps, books and accounts of all property subject to assessment in a manner that will permit accurate valuation and location on January 1, of each year.

G. **Regulated Companies.**

All regulated companies must provide a copy to the Administrator of each Annual Report that is submitted to their respective regulatory bodies. In addition, all companies that provide an Annual Report to their stockholders must submit their current report to the Administrator.

H. **Civil Penalties.**

The civil penalties and interest authorized by the Tax Ordinance shall be imposed and collection at the time and in the manner that the tax is imposed and collected. In order to assist in the imposition and collection of the penalties, the person having responsibility for determining the value of the property shall make an entry in the valuation records indicating the liability for any penalties due.

I. **Reporting Forms.**

All general reporting forms are to be completed in their entirety by all reporting entities. Use the proper form for each type of property, as defined or explained herein.

1. **Utility Tax Registration**

This form is to be used for registration with the Commission. The information will be maintained by the Administrator and should reflect the most current information of the reporting entity’s business operations within the exterior boundaries of the Pueblo of Jemez. This form is to be updated yearly and signed by the Lessee, a partner, an officer, or an authorized agent.

2. **Jemez Property Summary Report.**

- A. This reporting form summarizes the total property values for the reporting entity and is to be completed in its entirety, signed, and dated by the Lessee, a partner, an officer, or an authorized agent. The value of property for property taxation purposes is the full property value for all non-exempt property.
- B. List all leased real estate and all real estate in which taxpayer has an interest, including rights-of-way and service line agreements which are used in the reporting entity's operation or used in the conduct of its business within the exterior boundaries of the Pueblo of Jemez.
- C. List all owned and leased personal property and improvements used in the reporting entity's operation or used in the conduct of its business within the exterior boundaries of the Pueblo of Jemez. Group all property by lease number. Personal property is tangible property that is not part of, or permanently fixed to, a building or structure. Personal property includes but is not limited to furniture, machinery, equipment, supplies, materials and inventories used in the conduct of the business. Indicate by "PP" or "I" following the description whether the property is personal property or an improvement, and check the "Exempt Property" column if appropriate. Exempt properties must be identified, valued and their value posted to the "Taxable Value" column, even if an exception is claimed; however, values for exempt properties should not be used to calculate the tax due.

On an attached document, list the purchase date, the original cost, and the accumulated depreciation used to determine property value. Accumulated depreciation for purposes of this tax calculation cannot exceed 60% of original cost.

- D. The column entitled "Account Number" is to be used by all electric, telephone, and telegraph utilities for which an account number is required in the FCC, FERC, or REA Reports.

1. **Electric Utilities/Improvements.**

Report all owned and leased buildings, and improvements that are included in REA or FERC. Accounts, 310, 311, 340, 341, 350, 353, 360, 361, 389, and 390.

2. **Telephone and Telegraph Utilities/Improvements.**

Report all owned and leased buildings, and improvements that are included in FCC or REA Accounts 211, 212, 100.2, and 100.3

3. **Electric Utilities/Personal Property.**

Report all owned and leased personal property included in REA or FERC. Accounts 312 through 316, 342 through 346, 353 (less real estate, land rights, buildings and improvements).

4. **Telephone and Telegraph Utilities/Personal Property.**

Report all owned and leased personal property included in FCC or REA Accounts 221 and 234.

- E.
1. The value of property used for the generation, transmission, or distribution of electrical power or energy is determined according to the special method of valuation as described in Section 7-36-29, N.M.S.A. 1978. The value of property that is part of a telephone or telegraph communications system is determined according to the special method of valuation described in Section 7-36-30, N.M.S.A. 1978, as amended. The value of pipeline and gas utilities is determined according to the special method of valuation described in Section 7-3-27 N.M.S.A. 1978. A copy of the annual report to stockholders, a copy of the REA or FERC annual report, and a copy of the report submitted to the New Mexico Public Service Commission (if applicable) must be forwarded to the Administrator as soon as they are available.
 2. Utilities with transmission or distribution line must allocate property value by miles of line within the exterior boundaries of the pueblo of Jemez. The open wire and cable rate per mile is to be calculated pursuant to State of New Mexico guidelines. Multiply the miles of transmission or distribution line within the exterior boundaries of the pueblo of Jemez times the respective rate per mile, and post the property value amounts to the Jemez Pueblo Property Summary form. Total miles, original costs, and accumulated depreciation must agree with federal amounts reported to the FCC, FERC, REA, or other federal regulatory body.
 3. Utilities with pipeline must allocate property value by using the original cost of all owned or leased pipeline within the exterior boundaries of the Pueblo of Jemez, less the accumulated depreciation applicable to the pipeline.

4. Reporting gas utilities must post the scheduled value of all gas meters, including the original cost and accumulated depreciation as they appear in the FPC or FERC or ICC report. Materials and supplies are valued at 100% of original cost. Large industrial meters values must be posted separately. All other types of gas meters may be grouped and the average cost per meter within the exterior boundaries of the Pueblo of Jemez may be determined according to an actual count or reasonable estimation, provided that the reporting entity provide an accurate and clear description of the method used to calculate the average cost per meter. Multiply the respective scheduled values times the number of gas meters in their respective categories, and post the resultant property values to the Jemez Pueblo Property Summary Form.
5. The 1992 full property value of the leasehold or rights-of-way interest is equal to the larger of the annual rental amount, or an amount equal to Forty Thousand Dollars (\$40,000.00) per acre, times the number of acres, times the leasehold factor of Thirteen Percent (13%). Service line agreements are considered to be rights-of-way for the purpose of utility tax valuation.

J. **Payment.** The Pueblo of Jemez tax utility rate is five percent (5%) of the full property value of all non-exempt property. Taxpayers must remit taxes payable to the Administrator, along with the completed Jemez Pueblo Property summary Form. Failure to pay timely will result in certain events occurring, as set out in the Tax Ordinance. Penalties and interest are due on all payments received after February 1 of each year, and taxpayers are responsible for calculation such interest and penalties. Tax Administration Regulation No. 93-01 provides that, if any tax is not paid on or before the day on which it becomes due, the taxpayer shall pay interest on such amount from the first day following the day on which the tax becomes due, without regard to any extension of time or installment agreement, until it is paid. Interest is imposed at the rate of fifteen percent (15%) a year, computed at the rate of one and one-fourth percent (1 1/4%) per month or any fraction thereof, except that, if the amount of interest due at the time payment is made is less than one dollar (\$1.00), then no interest shall be due. Notwithstanding the foregoing, if demand is made for payment of any tax, including accrued interest, and if such tax is paid within ten (10) days after the date of such demand, no interest on the amount so paid shall be imposed for the period after the date of demand.

PUEBLO OF JEMEZ TAX COMMISSION

INSTRUCTIONS FOR REPORTING & PAYING
THE PUEBLO OF JEMEZ GROSS RECEIPTS TAX

A. Consideration to be Reported.

All consideration received from selling or leasing property and from performing services within the exterior boundaries of the Pueblo of Jemez, except as specifically excluded by the Pueblo of Jemez Tax Ordinance, is required to be reported and taxes paid thereon to the Pueblo of Jemez Tax Commission (hereinafter "Commission").

B. Payment Due Dates.

The gross receipts taxed are to be paid to and received on or before the twenty-fifth day of the month following the end of each calendar month in which the taxable event occurs.

C. Persons Preparing the Report.

Reports are to be prepared by the person engaged in business within the exterior boundaries of the Pueblo of Jemez, including but not limited to every Lessee of property used in the conduct of business; if the person is a partnership, by a partner; if the person is a corporation, by an officer. Any authorized agent preparing reports must attach proof of authorization of agency.

D. Reporting Requirements.

All reports submitted shall be prepared from the books and records of the reporting entity. Every report is subject to verification by audit and appraisal. Reports and payments must be received by the Pueblo of Jemez Tax Administrator (hereinafter "Administrator") at Post Office Box 100, Jemez Pueblo, New Mexico, 87024. If an extension of time for filing a report is requested in writing and approved by the Administrator, the time for filing of the report may be postponed. A copy of the Administrator's order granting extension must be returned with the report. An extension must be received on or before the due date to prevent penalty. If the last day for submitting the report and making payment falls on Saturday, Sunday, or a legal Pueblo, state, or national holiday, filing is timely if received by the Administrator on the next work day.

E. Where to Get Forms.

Forms are available from the Administrator, Post Office Box 100, Jemez Pueblo, New

Mexico, 87024.

F. Records Maintenance.

Reporting requirements are authorized by the Pueblo of Jemez Tax Ordinance (Tax Ordinance"). Every reporting entity shall maintain books and accounts of all transactions subject to the gross receipts tax in a manner that will permit accurate valuation, reporting, and payment.

G. Civil Penalties.

The civil penalties authorized by the Tax Ordinance shall be imposed and due at the time and in the manner that the tax is imposed and due. In order to assist in the imposition and collection of the penalties, the person having responsibility for reporting or paying the gross receipts tax shall be responsible for indicating the liability for any penalties due.

H. Payment.

The Pueblo of Jemez gross receipts tax rate is four percent (4%). Taxpayers must remit taxes payable to the Administrator, along with the completed Jemez Gross Receipts Tax Form. Failure to pay timely will result in certain events occurring, as set out in the Tax Ordinance. Penalties and interest are due on all late payments, and taxpayers are responsible for calculating such interest and penalties. Tax Administration Regulation No. 93-01 provides that, if any tax is not paid on or before the day on which it becomes due, without regard to any extension of time or installment agreement, until it is paid. Interest is imposed at the rate of fifteen percent (15%) a year, computed at the rate of one and one-fourth percent (1 1/4%) per month or any fraction thereof, except that if the amount of interest due at the time payment is made is less notwithstanding the foregoing, if demand is made for payment of any tax, including accrued interest and if such tax is paid within ten (10) days after the date of such demand, no interest on the amount so paid shall be imposed for the period after the date of demand.

CHAPTER 4 CIGARETTE TAX

SECTION 9-4-1. General Provisions

A. **Title.** The tax imposed by this Chapter shall be known as and may be cited as the "Cigarette Tax."

B. **Applicability.** This Chapter applies to all persons selling cigarettes or tobacco products in any quantity within the Pueblo of Jemez; provided that nothing in this Chapter shall be construed as regulating in any way, the use, consumption, trading, sale or giving away of traditional tobacco within Pueblo Lands.

SECTION 9-4-2. Definitions

As used in this Chapter:

- A. **Cigarette:** any roll of tobacco or substitute for tobacco wrapped in paper.
- B. **Cigarette Tax:** the tax imposed by this Chapter on the cigarettes sold on Pueblo Lands.
- C. **Licensee:** any person who has been issued a Jemez Pueblo Tobacco Vendor License.
- D. **Pack:** any package of cigarettes, typically containing twenty (20) or twenty-five (25) cigarettes, but could contain a lesser number of cigarettes. The definition does not include a carton.
- E. **Person:** any person or entity, including any individual, business, partnership, corporation, association, organization, or other legal entity of any kind.
- F. **Pueblo:** the Pueblo of Jemez.
- G. **Pueblo Lands:** all lands made subject to the sovereign governmental jurisdiction of the Pueblo of Jemez which are all lands constituting Pueblo of Jemez "Indian Country" under Title 18, U.S.C. § 1151(b) as well as such other lands now or hereafter held in trust for the Pueblo's benefit by the United States.
- H. **Retailer:** any person or business that sells cigarettes and/or tobacco products at retail to a consumer and the sale is not for resale. The Retailer is also referred to as the "Taxpayer" in this Chapter.
- I. **Tobacco Products:** any product, other than cigarettes, made from or containing tobacco. Included in this definition are cigars of all descriptions.

J. **Tobacco Product Compliance Directory:** the directory compiled and maintained by the New Mexico Attorney General's Office that lists the brand names and families of tobacco products that are compliant or non-compliant with the Tobacco Model Escrow Statute and the Tobacco Escrow Fund Act.

K. **Tobacco Vendor License:** the license issued by the Pueblo that authorizes the holder to receive and sell cigarettes and tobacco products on Pueblo Lands. Also referred to as "License."

L. **Traditional Tobacco:** twist or leaf tobacco traditionally used by Tribal members or other Native American individuals.

SECTION 9-4-3. Cigarette Tax

A. **Tax Imposed.** A tax of \$0.75 per pack of cigarettes is hereby levied and imposed upon every pack of cigarettes received on Pueblo Lands for sale by a Retailer.

B. **Legal Incidence of the Tax.** The legal incidence of the tax imposed by this Chapter shall be on Retailers selling cigarettes on Pueblo Lands.

C. **Liability for Collection and Payment of Tax.** Retailers within Pueblo Lands are responsible for the collection and payment of the Cigarette Tax, regardless of whether the taxes are passed on to the consumer in the cost of the product.

D. **Exemption from Tribal Sales Tax.** Cigarettes upon which the Cigarette Tax has been imposed and collected shall be exempt from the Jemez Pueblo Gross Receipts Tax.

E. **Traditional Tobacco Exempt.** Nothing in this Chapter shall be construed as regulating or taxing in any way the use, consumption, sale, or giving away of traditional tobacco on the Pueblo Lands.

F. **Tobacco Products Exempt from Taxation.** Nothing in this Chapter shall be construed as taxing in any way the use, consumption, sale, or giving away of Tobacco Products on Pueblo Lands.

SECTION 9-4-4. Reporting and Payment of Tax

All taxes imposed by this Chapter are due and payable on or before the twenty-fifth (25th) day of the calendar month immediately following the month in which the cigarette taxes accrue. Every person subject to the Cigarette Tax shall complete and file with the Pueblo a return for the preceding tax month on a form provided by the Pueblo. The return shall be accompanied by a payment of the amount of the Cigarette Tax due.

SECTION 9-4-5. Records and Retention of Records

Every Taxpayer shall maintain accurate and complete records relevant to reporting and

payment of cigarette taxes. Such records shall be maintained for a period of not less than three (3) years.

SECTION 9-4-6. Tobacco Vendor License Requirements

A. **Generally.** Every person who sells cigarettes or tobacco products in any quantity on Pueblo Lands must possess a valid Tobacco Vendor License issued by the Pueblo for each business location on Pueblo Lands where cigarettes or tobacco products are sold.

B. **Application and Fees.** An applicant for a License shall apply in writing on a form provided by the Pueblo and pay such fees as may be established.

C. **Compliance.** No License shall be issued or renewed if the applicant is not in compliance with the requirements of this Chapter, including payment of cigarette taxes.

D. **Non-Transferable and Location Specific.** A License shall not be transferred, sold or assigned and is only valid for the location identified on the License.

E. **Requirements.** All persons issued a Tobacco Vendor License shall:

1. prominently display the license in the business location;
2. be responsible for the sale of cigarettes and tobacco products on Pueblo Lands by their business, and the reporting and payment of all cigarette taxes;
3. not expand their business operation pertaining to cigarette and tobacco product sales beyond what was described in their application and upon which the License was issued unless such expansion is approved by the Pueblo.
4. comply with all laws and regulations of the Pueblo and applicable federal laws and regulations regarding the sale and distribution of cigarettes and tobacco products.

F. **Revocation of License.** In addition to other civil or criminal penalties imposed pursuant to this Chapter, the Pueblo may take action to revoke a License for:

1. any material misstatement of facts in an application, record, report, or other document required to be kept and/or filed with the Pueblo by this Chapter;
2. any violation of this Chapter or any regulation adopted pursuant to this Chapter, any Order issued pursuant to this Chapter or any applicable federal law or regulation.

G. **Additional Restrictions or Limited Number of Licenses.** The Tribal Council reserves the right when, in the Tribal Council's discretion, it is in the public's interest or welfare to impose additional restrictions on existing Licenses or limit the number of Licenses issued for sale of cigarettes or tobacco products.

SECTION 9-4-7. Prohibited Activities

No person, within Pueblo Lands, shall:

- A. Sell, offer to sell, barter or give cigarettes or tobacco products to a minor;
- B. Sell cigarettes or tobacco products in any quantity without a valid License, or at a location not authorized by the License, or in any manner not authorized by the License;
- C. Sell cigarettes or tobacco products on Pueblo Lands that are listed as non-compliant or contraband on the Tobacco Product Compliance Directory maintained by the State of New Mexico Attorney General's Office;
- D. Fail to file, report accurately and/or timely pay the Cigarette Tax;
- E. Fail to cooperate with the Pueblo, or its agent, in its conduct of its duties under this Chapter;
- F. Fail to comply with this Chapter and any regulations adopted hereunder.

SECTION 9-4-8. Audit Authority

In addition to any powers enumerated in Section 9-1-4 of this Title, the Tax Administrator shall be authorized to conduct audits of, and inspect Licensee invoices and records regarding cigarette purchases and sales on Pueblo Lands, with prior written notice; and contact any cigarette or tobacco products supplier or distributor to verify quantities of cigarettes sold and delivered to any Licensee.

SECTION 9-4-9. Enforcement

A. **Seizure and Sale of Products.** Any person found selling cigarettes or tobacco products on Pueblo Lands without a valid Tobacco Vendor License shall be issued a Cease and Desist Order. Violation of the Order shall result in the seizure of all cigarettes and/or tobacco products found in their possession or custody. If the person from whom the cigarette or tobacco product was seized obtains a License within ten (10) working days of seizure, the seized product shall be released to that person, provided the Pueblo shall act in a timely fashion to grant or deny the issuance of a License. If the Pueblo does not issue a License or the person takes no action to obtain a License, the Pueblo shall sell all seized cigarettes and tobacco products to the highest bidder after public advertisement. Only licensed persons shall be eligible to bid.

B. Other Penalties and Remedies. The Pueblo may also impose any other penalties and exercise any other rights and remedies prescribed by this Title.

C. Criminal Penalty. The Pueblo may bring and prosecute charges of unlawful sale or provision of cigarettes or tobacco products to minors in Tribal Court against any person within the Tribal Court's criminal jurisdiction, subject to a fine not to exceed Five Hundred Dollars (\$500.00) and/or imprisonment for up to ninety (90) days.

SECTION 9-4-10. Use of Funds

Taxes, interest and penalties shall be collected by and deposited with the Pueblo. All revenues received shall be allocated by the Tribal Council, in its discretion, for health, education, the community welfare, and essential governmental purposes.

SECTION 9-4-11. Miscellaneous

A. No Adoption of State Law. While this Chapter may reference certain New Mexico State laws, tax rates or documents, that reference does not adopt or extend New Mexico law or policy within the Pueblo Lands or over the Pueblo or its members and in no way alters any sovereign rights, powers or jurisdiction of the Pueblo of Jemez.

B. Effective Date. This Chapter shall become effective on July 1, 2010 and shall apply to all sales of cigarettes within Pueblo lands on and after July 1, 2010.