



**TRIBAL COUNCIL RESOLUTION 2018 - 25
ADOPTING THE PUEBLO OF JEMEZ ORDINANCE PROHIBITING
SOLID WASTE BURNING AND ILLEGAL DUMPING**

At a duly called meeting of the Tribal Council of the Pueblo of Jemez on the 17th day of October, 2018, the attached **SOLID WASTE ORDINANCE** was passed:

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 Pueblo of Jemez recognizes that illegal dumping of solid waste and the illegal burning of solid waste is a problem with cultural, esthetic, health, safety and economic impacts to tribal members and the Pueblo's natural resources; and

WHEREAS, the Pueblo of Jemez and Tribal Council is empowered to adopt the Solid Waste Ordinance for the protection, management, enforcement, preservation of traditions and customs, and enhancement of all natural resources within the Pueblo of Jemez boundaries.

NOW THEREFORE BE IT RESOLVED that the Tribal Council of the Pueblo of Jemez adopts the Solid Waste Ordinance.

Office of the Governor

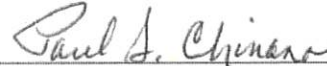
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CERTIFICATION

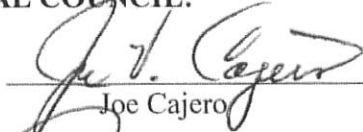
I, the undersigned, as Governor of the Pueblo of Jemez do hereby certify that the Jemez Tribal Council at a duly called meeting, convened on the 17th day of October 2018, at the Pueblo of Jemez, New Mexico, approved the foregoing resolution that a quorum was present and that 13 voted for and 0 opposed and 0 abstained.

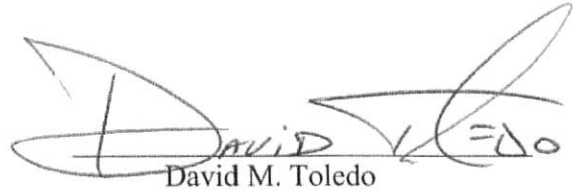
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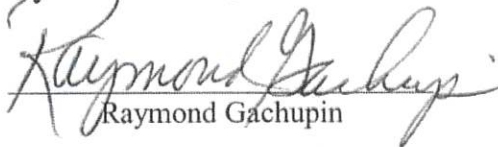

1st Lieutenant Governor

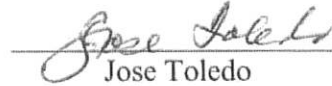

Paul S. Chinana, Governor

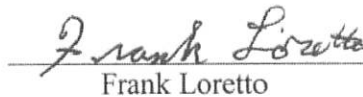
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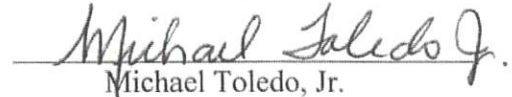

Joe Cajero

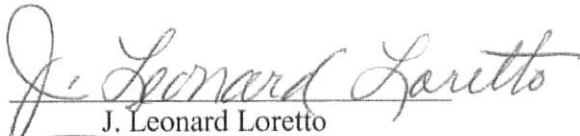

David M. Toledo

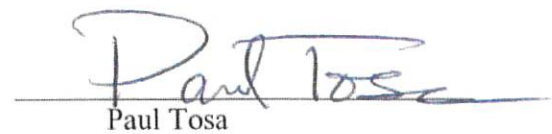

Raymond Gachupin

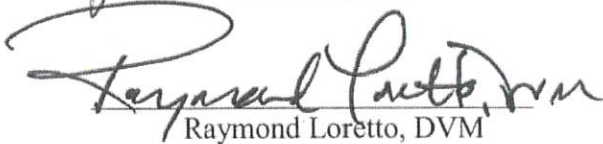

Jose Toledo

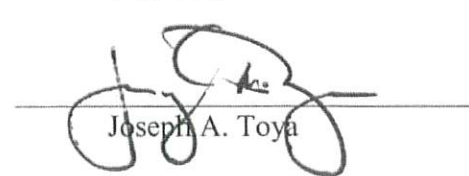

Frank Loretto

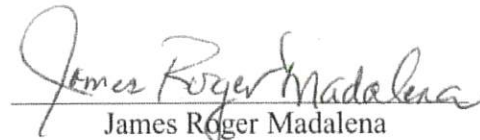

Michael Toledo, Jr.

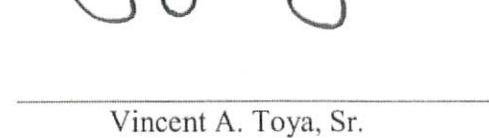

J. Leonard Loretto

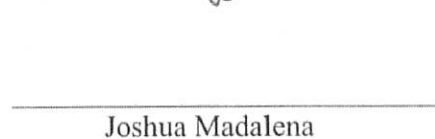

Paul Tosa

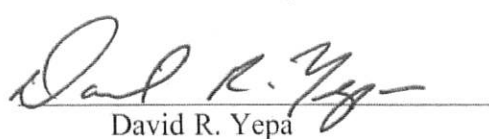

Raymond Loretto, DVM

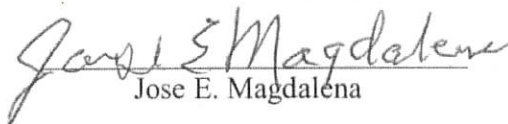

Joseph A. Toya


James Roger Madalena


Vincent A. Toya, Sr.


Joshua Madalena


David R. Yepa


Jose E. Magdalena

Office of the Governor

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Pueblo of Jemez Ordinance

Prohibiting Solid Waste Burning and Illegal Dumping

SECTION 1. TITLE AND EFFECTIVE DATE:

This ordinance shall be cited as the "Pueblo of Jemez Ordinance Prohibiting Solid Waste Burning and Illegal Dumping." The ordinance shall become effective upon adoption by the Pueblo of Jemez Tribal Council via Tribal Council Resolution and become the law of the Pueblo.

SECTION 2. PURPOSE:

The purpose of this ordinance is to prohibit the illegal dumping of solid waste (including hazardous waste) and regulate open burning (with the except listed in Section 6. B) in order to stop the resultant pollution of soil, streams, groundwater, and cultural sites of the Pueblo.

Additionally, the purpose of this ordinance is to:

1. Promote the health and safety of all persons within the exterior boundaries of Jemez Pueblo Tribal Lands ("Tribal Lands");
2. Promote the cultural, social and economic stability of residential, agricultural, commercial, industrial, forest, riparian, and environmentally sensitive areas within the Tribal lands;
3. Contribute to the protection of Tribal Lands as a permanent Tribal homeland, including protection of the historical, cultural and traditional values of Tribal Lands;
4. Protect air, water, and land from solid and hazardous waste pollution, including contamination of the Pueblo's aquifers, groundwater, surface water, and all other natural resources;
5. Enhance the standard of living, quality of life, welfare and well-being of all persons within the exterior boundaries of all Tribal Lands.
6. Provide and promote Tribal environmental protection and services within the Tribal Lands, to regulate environmental activities under principles of Tribal sovereignty;
7. Implement and enforce environmental standards and criteria, and regulations, orders, and permit conditions established under this Ordinance, for the sanitary storage, collection, transportation and disposal of all solid waste within the exterior boundaries of the Tribal Lands.

SECTION 3. DEFINITIONS

For the purposes of this Ordinance, the following definitions shall apply:

1. HAZARDOUS WASTE means waste with properties that make it dangerous or capable of having a harmful effect on human health or the environment. Hazardous waste is generated from many sources, ranging from industrial manufacturing process wastes to batteries and may come in many forms, including liquids, solids gases, and sludges. Hazardous waste is waste that is listed as hazardous waste or has the characteristics of hazardous waste under 40 C.F.R. § 261.
2. ILLEGAL DUMPING means unpermitted disposal of waste materials such as household waste, toxic waste, hazardous waste, appliances, furniture, tires, and used vehicles on any lands or any waters of the Pueblo of Jemez reservation.
3. OPENING BURNING means a fire where any material is burned on the ground or in an open receptacle other than a furnace, incinerator, or other equipment connected to a stack or chimney.
4. PERSON(S) means any individual, firm, corporation, company, partnership, association or other legal entity or any agent of the foregoing.
5. POLLUTION means the contamination of Tribal Lands, waters, and riverbanks by the discharge of harmful substances or litter.
6. PUEBLO OF JEMEZ or POJ means the federally recognized Indian Tribe and its departments and agencies.
7. PUEBLO LAW means the body of the law of the Pueblo, consisting of its codes, ordinances, resolutions, regulations, court decisions, and customs.
8. RESERVATION means all lands under the jurisdiction of the POJ Tribe.
9. SOLID WASTE means all biodegradable and nonbiodegradable refuse that is generated through the course of normal living by the residents and organizations in the community. The term does not include hazardous waste.
10. TRANSFER STATION means a site approved by the Pueblo of Jemez for the collection and/or disposal of solid waste.
11. TRIBAL COUNCIL means the governing body of the Pueblo of Jemez.
12. TRIBAL LANDS means (1) all lands within the Pueblo of Jemez reservation, (2) any land the title to which is now held in trust by the United States or may be acquired in the future for the benefit of the Pueblo, and (3) any land the title to which is held in restricted, fee-simple, status by the Pueblo, including such lands reserved by BIA administrative purposes. The term also includes the surface estate of lands held by the United States in trust for the Pueblo chartered under Section 17 of the Act of June 18, 1934 (48 Stat. 988; 25 U.S.C. 477)
13. TRIBAL MEMBER means an individual who is officially recognized and enrolled as a member of the Pueblo of Jemez.
14. TRIBAL COURT means the court established by Pueblo Law.

15. TRIBE means the Pueblo of Jemez.

SECTION 4. EFFECTS OF ORDINANCE

- A. Solid waste and hazardous waste must be disposed of through the Tribal solid waste disposal system, leading to disposal through the Tribal transfer station, or another lawful transfer station, which has been established to receive and appropriately handle waste materials and recyclables brought there for proper disposal.
- B. Any person responsible for illegal dumping on the Pueblo of Jemez reservation shall be prosecuted in Tribal Court.
- C. When solid waste and hazardous waste is dumped or deposited in violation of this chapter and two (2) or more items in the solid waste and hazardous waste identify the same person as the owner or recipient of that waste, there shall be a rebuttal presumption that the person is responsible for the unlawful dumping of solid waste and hazardous waste.

SECTION 5. ILLEGAL DUMPING

It shall be unlawful for any person to commit illegal dumping of solid waste and hazardous waste within the exterior boundaries of the Pueblo of Jemez reservation.

SECTION 6. OPEN BURNING

- A. Open burning of household and office waste, medical waste, furniture, household appliances, tires, vehicles, construction and demolition debris, and hazardous waste is prohibited within the Pueblo of Jemez reservation.
- B. Open burning of other materials, including but not limited to weeds, trees, shrubs, and agricultural plant matter, must comply with the provisions of *Tribal Council Resolution No. 2016-19*, including the permitting requirements of that Resolution; *Jemez Tribal Code Section 3-2-48 Unlawful burning during fire restrictions/burning without burn permit*.

SECTION 7. ENFORCEMENT

- a. Citations: The Pueblo of Jemez Police Department, Tribal Sherriff and Sherriff Aids, shall issue citations to any person(s) who violates this Ordinance. The offender shall be given an opportunity to pay the penalty assessment in the amount as provided for in the citation or challenge the citation in Tribal Court.
- b. Prosecution: Any person(s) who violates this ordinance that elects to pay the penalty under paragraph (a) of this section but fails to pay the assessed penalty agreed to in the citation shall be subject to prosecution before the Pueblo of Jemez Tribal Judge.
- c. The parents or guardians of minors shall be held accountable for the penalties imposed under this ordinance for any illegal dumping and/or open burning committed by the minors for whom they are legally responsible.

SECTION 8. PENALTIES

a. The following penalties are authorized under this ordinance:

1. First violation: \$100.00 (one hundred dollars) in fines and 20 hours of community service. Or as otherwise decided by the Judge.
2. Second violation: Up to \$500.00 (five hundred dollars) in fines and 40 hours of community service, to be determined by the Tribal Judge.
3. Third violation: Up to \$1,000.00 (one thousand dollars) in fines, to be determined by the Tribal Judge.
4. In addition to the fines described in this section, should the Public Works Department, other Tribal Department or Tribal Officials perform cleanup of the illegal dumping site, the Tribal Court Judge may order restitution for the costs of cleanup, including hourly wages of tribal staff or a tribal contractor against the offender.
5. In addition to, or in lieu of, the fines described in this section, the Tribal Judge may require that the offender clean up the illegal dumping site under the supervision of tribal officials.

SECTION 9. MISCELLANEOUS PROVISIONS

a. SEVERABILITY: If any section, clause, sentence or provision of this ordinance is found to be invalid, the remainder of the ordinance shall not be affected.

b. AMENDMENTS: This ordinance may be amended by the Tribal Council as proposed by the Directors of Public Works and Natural Resources Departments. The Tribal Council may approve or disapprove of such proposed amendments.