

PUEBLO OF ACOMA LAWS 2003 (2025 Replacement)

**TITLE 1
PRELIMINARY MATTERS
Establishment and Interpretation of the Pueblo of Acoma Laws**

This Replacement includes laws enacted since the Pueblo of Acoma Laws 2003 pursuant to Tribal Council Resolutions dated January 1, 2008, through December 31, 2024.

PUEBLO OF ACOMA LAWS 2003 (2025 Replacement)

TITLE 1

PRELIMINARY MATTERS

Establishment and Interpretation of the Pueblo of Acoma Laws

These laws may be cited by Title, Chapter, Section and Year as Section or ' ___ - ___ - ___
Pueblo of Acoma Laws 2003 (2025 Replacement)

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TITLE 1
PRELIMINARY MATTERS
Establishment and Interpretation of the Pueblo of Acoma Laws

TABLE OF CONTENTS

<u>Chapter</u>		<u>Page</u>
1.	Foundations.....	1-1
	1-1-1 Sovereignty	1-1
	1-1-2 Inherent Powers	1-1
	1-1-3 Purpose of Written Laws	1-1
	1-1-4 Repeal.....	1-2
	1-1-5 Traditional Law.....	1-2
	1-1-6 Amendment.....	1-2
	1-1-7 Public Review.....	1-2
	1-1-8 Process for Responding to Requests for Pueblo Law	1-2
2.	Jurisdiction of the Pueblo of Acoma	1-3
	1-2-1 Civil Jurisdiction over Persons	1-3
	1-2-2 Civil Jurisdiction over Property	1-4
	1-2-3 Criminal Jurisdiction	1-5
3.	Powers of the Tribal Officers	1-5
	1-3-1 Tribal Officers - Source of Authority	1-5
	1-3-2 Selection and Duties of Tribal Officers	1-6
4.	Acoma Pueblo Tribal Council	1-7
	1-4-1 Composition	1-7
	1-4-2 Legislative Duties	1-7
	1-4-3 Judicial Duties	1-7
	1-4-4 Administrative Duties	1-8
	1-4-5 Protect Health, Safety, and Welfare	1-8
4.A	Organization of Tribal Administration	1-9
	1-4A-1 Commissions and Tribal Entities Directly Responsible to the Tribal Council	1-9
	1-4A-2 Establishment of Executive Departments	1-9
	1-4A-3 Role of Department Executive Directors	1-11
	1-4A-4 Oversight of Executive Directors	1-12
	1.4A.5 Designation of Public Health Authority	1-12
5.	Grant of Judicial Power to Tribal Court.....	1-12
	1-5-1 Establishment.....	1-12
	1-5-2 A General Jurisdiction Court	1-12

1-5-3	Divisions of the Court	1-13
1-5-4	Alternative Dispute Resolution	1-13
1-5-5	Appeals from the Acoma Tribal Court	1-13
1-5-6	Selection of Judges.....	1-15
1-5-7	Removal of Judges of the Pueblo of Acoma Judiciary	1-16
1-5-8	Disqualification of Judges of the Pueblo of Acoma	1-17
1-5-9	Duties and Powers of Judges of the Pueblo of Acoma	1-18
1-5-10	Court Clerk Selection, Qualification, and Duties.....	1-19
1-5-11	Records of the Acoma Pueblo Tribal Court; Keeping the Docket.....	1-20
1-5-12	Selection, Duties and Authority of Other Court Staff	1-21
1-5-13	Bonding of Pueblo of Acoma Judiciary and Court Personnel	1-21
1-5-14	Court Administration.....	1-22
6.	Sovereign Immunity.....	1-22
1-6-1	Existence of Immunity	1-22
1-6-2	Interpretation of Waiver.....	1-22
1-6-3	Where Waiver Exists.....	1-22
1-6-4	Bond Required	1-23
1-6-5	Limited Indemnification of Certain Pueblo Officials.	1-23
7.	Census Committee	1-23
1-7-1	Tribal Council Determines Membership.	1-23
1-7-2	Census Committee.....	1-24
1-7-3	Establishment - Office of Census - Enrollment Services.....	1-24
8.	Tribal Records Office.....	1-24
1-8-1	Establishment of Tribal Records Office	1-24
9.	Office of Realty and Natural Resources	1-24
1-9-1	Establishment of Office of Realty and Natural Resources (formerly known as the Acoma Land Office)	1-24
10.	Acoma Business Board	1-25
1-10-1	Establishment of Business Board.....	1-25
1-10-2	Mission Statement.....	1-25
1-10-3	Purpose and Organization	1-26
1-10-4	Board Composition.....	1-26
1-10-5	Powers and Duties Governing Operation of Board	1-28
1-10-6	Conflict of Interest	1-36
1-10-7	Disclosure of Major Transactions	1-37
1-10-8	Confidentiality.....	1-37
1-10-9	Amendment.....	1-37
11.	Acoma Employee's Association.....	1-37
1-11-1	Establishment of Acoma Employee's Association.....	1-37

12.	Exclusion	1-38
	1-12-1 Exclusive Power of Tribal Council	1-38
	1-12-2 Basis for Exclusion.....	1-38
	1-12-3 Exclusion Procedure	1-38
	1-12-4 Emergency Exclusion.....	1-39
13.	Acoma Health Board	1-40
	1-13-1 Establishment of the Pueblo of Acoma Health Board.....	1-40
	1-13-2 Mission.....	1-41
	1-13-3 Purpose.....	1-41
	1-13-4 Board Composition.....	1-43
	1-13-5 Powers and Duties Governing Operation of Acoma Health Board	1-46
	1-13-6 Disclosure of Major Transactions	1-59
	1-13-7 Confidentiality.....	1-60

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PUEBLO OF ACOMA LAWS 2003 (2025 Replacement)

TITLE 1
PRELIMINARY MATTERS
Establishment and Interpretation of the Pueblo of Acoma Laws

Chapter 1. FOUNDATIONS

1-1-1 Sovereignty. The Pueblo of Acoma has always been, and is now, an Indian nation which is recognized by the United States as inherently possessing all sovereign authority, except as explicitly limited by the Pueblo of Acoma or by the laws of the United States.

Origins: Pueblo Common law as recognized in Treaty of Guadalupe - Hidalgo and subsequent laws of the United States. Restated in Pueblo of Acoma Laws 1996 pursuant to Tribal Council Resolution No. TC-AUG-28-96-3.

1-1-2 Inherent Powers. These laws of the Pueblo of Acoma are set out pursuant to the Pueblo's inherent power as a government to make laws and enforce them.

Origins: Pueblo Common law as recognized in Treaty of Guadalupe - Hidalgo and subsequent laws of the United States. Restated in Pueblo of Acoma Laws 1996 pursuant to Tribal Council Resolution No. TC-AUG-28-96-3.

1-1-3 Purpose of Written Laws. These laws of the Pueblo of Acoma are set out in writing at this time to protect the public welfare of the Acoma Pueblo Community, specifically:

- A. To protect and respect the peace of all persons of the Acoma Community and their property within the territorial boundaries of the Pueblo of Acoma;
- B. To protect the natural resources and beauty of the Pueblo of Acoma;
- C. To protect the traditions, customs, land base and human resources of the Pueblo of Acoma; and
- D. To preserve the life ways, spiritual and physical land base and resources of the Pueblo of Acoma to provide a tribal home for present and future generations.

Origins: Pueblo Common law as recognized in Treaty of Guadalupe - Hidalgo and subsequent laws of the United States. Restated in Pueblo of Acoma Laws 1996

pursuant to Tribal Council Resolution No. TC-AUG-28-96-3.

1-1-4 Repeal. This Title I is a restatement of Titles I and II, previously adopted by the Council of the Pueblo of Acoma in 1985. Titles I and II of Pueblo of Acoma Laws 1985 are repealed unless set forth in these laws.

Origins: Tribal Council Resolution No. TC-AUG-28-96-3.

1-1-5 Traditional Law. In addition to these written laws, the Pueblo of Acoma has a rich customary or common law tradition.

A. In the absence of an express statement of an intention on the part of the Tribal Council to replace the common law tradition, these written Laws shall be interpreted to be consistent with the Pueblo's common law tradition.

B. Where applying the written law makes it impossible to comply with the customary or common law of the Pueblo of Acoma, and there is no clear written statement of the Tribal Council's intent to replace the customary or common law, the customary or common law shall be applied and the written law shall be ignored.

Origins: Pueblo Common Law as restated and adopted in Tribal Council Resolution No. TC-AUG-28-96-3

1-1-6 Amendment. The laws of the Pueblo of Acoma may be amended by the Tribal Council and, unless the resolution adopting an amendment states differently, an amendment will be effective upon adoption by the Tribal Council.

Origins: 1985 Law and Order Code as restated and adopted in Tribal Council Resolution No. TC-AUG-28-96-3.

1-1-7 Public Review. All written laws of the Pueblo of Acoma, including tribal ordinances, public orders of the Governor, approved rules and regulations of Pueblo Agencies and Commissions, must be posted for public review at the Governor's office, the Tribal Police Department Office, the Tribal Court, and at least one other public location.

Origins: Pueblo Common Law as restated and adopted in Tribal Council Resolution No. TC-AUG-28-96-3.

1-1-8 Process for Responding to Requests for Pueblo Law.

A. Where a court, agency, or other Government must determine issues

of Acoma Law that are not clearly stated in the statutory or written law of the Pueblo, the issues may be presented to the Governor for determination by the Tribal Council. The Tribal Council shall determine how to answer the question presented and inform the Governor. The Governor shall submit the Tribal Council's determination to the entity presenting the request.

- B. Where the Tribal Council finds it necessary to make Acoma Law known to a decision-maker, it may authorize the Governor to present the Council's determination to the decision-maker on its own initiative. This section is enacted to protect the Pueblo's rights of self-government, specifically the right to make its own law.

Origins: Originally in Section 11(B) of 1971 Law and Order Code, omitted from Chapter 1 1996 Restatement, and re-adopted in its current language pursuant to Acoma Tribal Council Resolution No. TC-JUL-28-99-3.

Annotations: Chapter 1, Section 11(B) of the 1971 Law and Order Code only allowed the Tribal Court to seek clarification of any law, and regulation from the Superintendent. The 1999 Tribal Council Resolution does not limit who shall make a request for clarification. The 1999 Tribal Council Resolution also states that the Tribal Council, not the Superintendent, is the official body for clarifying or responding to request of Acoma law. The current version adopted in 1999 was in response to United States District Court case stating that Acoma law should be applied in a medical malpractice suit. See, *Cheromiah v. United States*, U.S.D.C. Civ No. 97-1418. This section was adopted to respond to a request for unwritten Pueblo law. The original intent of the 1999 Tribal Council Resolution was meant to provide a process for responding to requests of unwritten Acoma law. That process is provided in Section B. Section A addresses the process for clarifying written Acoma law.

Chapter 2. JURISDICTION OF THE PUEBLO OF ACOMA

1-2-1 Civil Jurisdiction Over Persons. The inherent sovereign power of the Pueblo of Acoma to make laws and take other measures to provide for, protect, and preserve the public welfare of the Pueblo of Acoma, except as limited by federal law over criminal enforcement, extends to all persons who are members of the Acoma Community and other persons or organizations of any type which:

- A. Transact any business within the exterior boundaries of the lands of the Pueblo.
- B. Consent to the application of the laws of the Pueblo to them,

including, but not limited to, the act of voluntarily entering onto lands within the exterior boundaries of the Pueblo for any purpose.

- C. Operate a motor vehicle upon roadways and/or the lands within the exterior boundaries of the Pueblo.
- D. Commit any injury to people, property, or other community resources (any tortious act) within the exterior boundaries of the Pueblo.
- E. Contract to insure any person, property or risk located within the exterior boundaries of the Pueblo at the time of contracting.
- F. Have lived in a family relationship within the exterior boundaries of the Pueblo, even where the person has subsequently left the Pueblo, as to matters relating to the family including, but not limited to, divorce, separation, annulment, establishment of paternity or maternity, child custody, duties to support children, and other family matters, if one member of the family continues to reside within the exterior boundaries of the Pueblo.
- G. For the purposes of enforcement of the Indian Child Welfare Act, have sufficient contacts with the Pueblo of Acoma or its members to make it reasonable, based upon the purposes of the federal Indian Child Welfare Act, for those persons to be subject to the jurisdiction of the Pueblo of Acoma as to matters arising under that federal law.

Origins: Pueblo Common Law as recognized in Treaty of Guadalupe-Hidalgo and subsequent law of the United States. Version of this Section appeared in the 1971 Law and Order Code, restated and revised in the 1985 Law and Order Code, and in the Pueblo of Acoma Laws 1996 pursuant to Tribal Council Resolution No.TC-AUG-28-96-3.

1-2-2

Civil Jurisdiction over Property.

- A. Civil Jurisdiction over Property within Pueblo Territorial Jurisdiction: The inherent sovereign authority of the Pueblo of Acoma extends to all property, personal or real, located within the territorial jurisdiction of the Pueblo. The territorial jurisdiction of the Pueblo includes: (1) all lands, waters, roadways, trails, or rights-of-way and airspace within the exterior boundaries of the Pueblo as recognized and confirmed by patent issued under the Act of December 22, 1858 (11 Stat 374) as amended; (2) all territory made a part of the Pueblo of Acoma by any other Acts of Congress, Executive Orders or judicial decrees, and including lands owned by the United States for the benefit of the Pueblo now or in the future; and (3) all land owned by

the Pueblo of Acoma. The territorial jurisdiction of the Pueblo exists regardless of how title to the land is held. It includes, but is not limited to, any installations of the United States government or any other government within the exterior boundaries the Pueblo of Acoma.

- B. Nothing in this Section is intended to limit in any manner the recognition or enforceability of a tribal court judgment against a person or entity for execution of that judgment in any other court of competent jurisdiction.

Origins: Pueblo Common Law as recognized in Treaty of Guadalupe - Hidalgo and subsequent laws of the United States. Restated in Pueblo of Acoma Laws 1996 pursuant to Tribal Council Resolution No. TC-AUG-28-96-3.

1-2-3 Criminal Jurisdiction.

- A. The Pueblo of Acoma has the inherent sovereign power to enforce its criminal laws against the following classes of individuals:
 - 1. All members of the Acoma Pueblo.
 - 2. All other persons as permitted by the laws of the United States or by the individual person through a knowing and voluntary consent to tribal enforcement of tribal law.
- B. In the absence of criminal jurisdiction over persons to enforce tribal law, the Pueblo has the inherent power to detain and deliver up to other authorities, or to exclude from the Pueblo of Acoma, those persons over whom criminal jurisdiction cannot be obtained, but who pose a danger to the public health, safety, or welfare of the Acoma Community.

Origins: Pueblo Common Law as recognized in Treaty of Guadalupe - Hidalgo and subsequent laws of the United States. Restated in Pueblo of Acoma Laws 1996 pursuant to Tribal Council Resolution No. TC-AUG-28-96-3.

Chapter 3. POWERS OF THE TRIBAL OFFICERS

1-3-1 Tribal Officers - Source of Authority.

- A. The Pueblo of Acoma is a government recognized by the United States of America and, as such, it has the inherent power, separate and distinct from all other governments, to make law, enforce law,

and do all other acts necessary to exercise sovereign power of the Pueblo, including, but not limited to, selecting and empowering individuals to exercise the Pueblo's inherent sovereign powers as tribal officers.

- B. The Pueblo of Acoma's governmental power was recognized by Spain, Mexico, and the United States. This recognition is physically symbolized by the canes of authority the Pueblo of Acoma has been given by each of these nations.

Origins: Pueblo Common Law as recognized in Treaty of Guadalupe - Hidalgo and subsequent laws of the United States. Restated in Pueblo of Acoma Laws 1996 pursuant to Tribal Council Resolution No. TC-AUG-28-96-3.

1-3-2

Selection and Duties of Tribal Officers.

- A. Officers are traditionally appointed once a year. Each officer's authority is symbolized by the metal-topped cane and/or other badge of office which the officer must respect and maintain through his appointment as an officer.
- B. The officers are given powers which are proclaimed on annual Appointment and Induction Day, pursuant to traditional and customary processes. In addition to those powers, the officers are given the powers and responsibility to represent the Pueblo in matters involving those outside the Pueblo. These officers are:
1. Governor.
 2. First Lieutenant Governor.
 3. Second Lieutenant Governor.
 4. Tribal Secretary.
 5. Tribal Interpreter.

These officers are responsible for conducting all of the Pueblo's business with the other communities and governments, including, but not limited to:

- Public maintenance and supervision of Pueblo natural resources, including, but not limited to, lands and waters;
- Representing the Pueblo to the officers of other governments, tribal, state, and federal.

- Enforcing laws, policies, and resolutions enacted by the Tribal Council.
- Reporting to and consulting among themselves and with the Tribal Council.

Nothing in this section is intended in any way to limit the power of these Acoma officers to act in any way deemed necessary to protect the public health, safety, or welfare of the Acoma Pueblo Community and which is consistent with the rights of Individuals as recognized in the laws of Acoma Pueblo.

- C. The Head Field Chief and Assistant Field Chiefs are responsible for functions of a traditional, internal nature, as defined by the tradition and common law of the Pueblo, and, as such, the decisions of the Field Chiefs may only be appealed through traditional ways and not to the Tribal Court.
- D. The Fiscale or sheriff and his assistants act to keep law and order of the community at the traditional level. This includes, but is not limited to, maintaining peace within families. His decisions are not appealable to Tribal Court.

Origins: Pueblo Common Law as restated and adopted in Tribal Council Resolution No. TC-AUG-28-96-3.

Chapter 4. ACOMA PUEBLO TRIBAL COUNCIL

1-4-1 Composition. The Acoma Pueblo Tribal Council is composed of a head councilman, or chair; and eleven council members traditionally appointed each year in the traditional way of Acoma.

Origins: Pueblo Common Law as restated and adopted in Tribal Council Resolution No. TC-AUG-28-96-3.

1-4-2 Legislative Duties. The Acoma Pueblo Tribal Council is authorized to make all written laws of the Pueblo, including, but not limited to, civil laws, criminal laws, and laws describing the procedures to be used by the Tribal Council and by other branches of tribal government.

Origins: Pueblo Common Law as restated and adopted in Tribal Council Resolution No. TC-AUG-28-96-3.

1-4-3 Judicial Duties.

- A. The Acoma Pueblo Tribal Council has the power to create the Acoma Pueblo Tribal Court and any other courts the Council finds

to be necessary for the preservation of the public health, safety, or welfare of the Acoma Community.

- B. The Acoma Pueblo Tribal Council has the power to make exceptions or limitations to the jurisdiction of the Tribal Court. In any cases excluded from the Tribal Court's jurisdiction, the procedures to be followed in adjudicating a dispute shall apply to the Pueblo common law of fundamental fairness and respect for all persons.
- C. Some possessory interests in land created in traditional ways are excluded from the Tribal Council's powers.
- D. The Acoma Pueblo Tribal Council has the power to review final decisions of the Tribal Court.
- E. The Acoma Pueblo Tribal Council, with the advice of the Acoma Tribal Court Chief Judge, has the power to make all rules of procedure for the operation of the Tribal Court.

Origins: Pueblo Common Law as restated and adopted in Tribal Council Resolution No. TC-AUG-28-96-3.

Annotations: Cross reference to the process for reviewing final decisions of the Tribal Court found at Section 1-5-5 Pueblo of Acoma Laws 2003.

1-4-4

Administrative Duties.

- A. The Acoma Pueblo Tribal Council has the power to waive the sovereign immunity of the Pueblo of Acoma or, by resolution, to authorize the Governor or his designate to waive the sovereign immunity of the Pueblo of Acoma as limited in the resolution.
- B. The Acoma Pueblo Tribal Council has the power to approve on behalf of the Pueblo all agreements of the Pueblo.
- C. The Acoma Pueblo Tribal Council has the power to authorize the employment of persons as needed for the health, safety, or public welfare of the Pueblo.
- D. The Acoma Pueblo Tribal Council has the power to create commissions, boards, and administrative agencies as needed to carry out the laws of the Pueblo and as needed to protect the public health, safety, or welfare of the Acoma Community.

Origins: Pueblo Common Law as restated and adopted in Tribal Council Resolution No. TC-AUG-28-96-3.

1-4-5 Protect Health, Safety, and Welfare. Nothing in this section is intended in any way to limit the power of the Acoma Pueblo Tribal Council to act in any way deemed necessary to protect the public health, safety or welfare of the Acoma Pueblo Community and which is consistent with the rights of Individuals as recognized in the laws of Acoma Pueblo.

Origins: Pueblo Common Law as restated and adopted in Tribal Council Resolution No. TC-AUG-28-96-3.

Chapter 4A. ORGANIZATION OF TRIBAL ADMINISTRATION

1-4A-1 Commissions and Tribal Entities Directly Responsible to the Tribal Council: The following Pueblo programs and commissions are directly responsible to the Tribal Council:

- A. The Pueblo of Acoma Gaming Commission
- B. The Pueblo of Acoma Courts
- C. The Pueblo of Acoma Housing Authority
- D. The Pueblo of Acoma Business Board.

Origins: Pueblo of Acoma Tribal Council Resolution No. 2017-051 "Approval by the Pueblo of Acoma Tribal Council to Amend and Update the Organizational Structure and to Implement the Recommendations from the Organizational Assessment for Tribal Government Programs.

1-4A-2 Establishment of Executive Departments: In order to support the effective and efficient provision of governmental services to the Pueblo of Acoma Community, and to administer and foster a positive employment operation for Tribal Government Employees, there are created the following Departments within the administration of tribal government.

A. Pueblo of Acoma Department of Health and Human Services. The Department shall consist of the following programs of the Pueblo of Acoma:

- 1. Behavioral Health
- 2. Food Distribution
- 3. Wellness
- 4. Parks and Recreation
- 5. Senior Center
- 6. Social Services;

B. Pueblo of Acoma Department of Operations. The Department shall consist of the following programs of the Pueblo of Acoma:

- 1. Community Development
 - a. [Census Committee] Enrollment

- b. Post Office
 - c. Tribal Employee Rights Office
 - 2. Realty and Natural Resources
 - a. Environment
 - b. Historic Preservation Office
 - c. Water Office
 - 3. Public Safety
 - a. Emergency Medical Services and Fire Department
 - b. Law Enforcement
 - c. Security
 - d. Detention;

- C. Pueblo of Acoma Department of Support Services. The Department shall consist of the following programs of the Pueblo of Acoma:
 - 1. Accounting
 - 2. Administrative Support
 - 3. Facilities
 - 4. Grants
 - 5. Human Resources
 - 6. Internet Technology
 - 7. Taxation

- D. Pueblo of Acoma Department of Education. The Pueblo of Acoma Department of Education shall consist of the following programs:
 - 1. Early Childhood
 - 2. Elementary School
 - 3. Library
 - 4. Student Support Services
 - 5. Employment and Training
 - 6. Language Preservation.

- E. Pueblo of Acoma Department of Public Utilities. The Pueblo of Acoma Department of Public Utilities shall consist of the following programs:
 - 1. Water and Wastewater
 - 2. Public Works
 - 3. Solid Waste Management
 - 4. Natural Gas Services
 - 5. Electric Services

Origins: Pueblo of Acoma Tribal Council Resolution No. 2017-051 "Approval by the Pueblo of Acoma Tribal Council to Amend and Update the Organizational Structure and to Implement the Recommendations from the Organizational Assessment for Tribal Government Programs.

1-4A-3 Role of Department Executive Directors. Each Department shall have an

Executive Director who shall have oversight of and be responsible for the operations of the Pueblo of Acoma programs in each Department.

Origins: Pueblo of Acoma Tribal Council Resolution No. 2017-051 “Approval by the Pueblo of Acoma Tribal Council to Amend and Update the Organizational Structure and to Implement the Recommendations from the Organizational Assessment for Tribal Government Programs.

- A. The Executive Director of the Pueblo of Acoma Department of Health and Human Services shall coordinate the Department’s programs and operations with Pueblo of Acoma Health Board as set forth in the Pueblo of Acoma Laws.

Origins: Pueblo of Acoma Tribal Council Resolution No. 2017-051 “Approval by the Pueblo of Acoma Tribal Council to Amend and Update the Organizational Structure and to Implement the Recommendations from the Organizational Assessment for Tribal Government Programs.”

Annotations: See Title 1, Chapter 13 Pueblo of Acoma Laws (2003) (2025 Replacement) creating the Pueblo of Acoma Health Board and setting out the duties of the Pueblo of Acoma Health Board.

- B. The Executive Director of the Pueblo of Acoma Department of Education shall coordinate the Department’s programs and operations with the Pueblo of Acoma Board of Education.

Origins: Pueblo of Acoma Tribal Council Resolution No. 2017-051 “Approval by the Pueblo of Acoma Tribal Council to Amend and Update the Organizational Structure and to Implement the Recommendations from the Organizational Assessment for Tribal Government Programs.”

Annotations: See Title 21 Pueblo of Acoma Laws (2003)(2019 Replacement), as amended, creating the Pueblo of Acoma Board of Education (Section 21-5-1) and setting out the duties of the Pueblo of Acoma Board of Education.

- C. The Executive Director of the Pueblo of Acoma Department of Public Utilities shall coordinate the Departments programs and operations with the Pueblo of Acoma Utility Authority Board.

Origins: Pueblo of Acoma Tribal Council Resolution No. 2017-051 “Approval by the Pueblo of Acoma Tribal Council to Amend and Update the Organizational Structure and to Implement the Recommendations from the Organizational Assessment for Tribal Government

Programs.”

Annotations: See Title 20, Chapter 3, Pueblo of Acoma Laws (2003) (2015 Supplement) as amended, creating the Pueblo of Acoma Utility Authority Board and setting out the duties of the Board.

1-4A-4 Executive Directors serve at the pleasure of the Governor. The Governor or his designee have oversight of Executive Directors.

Origins: Pueblo of Acoma Tribal Council Resolution No. 2017-051 “Approval by the Pueblo of Acoma Tribal Council to Amend and Update the Organizational Structure and to Implement the Recommendations from the Organizational Assessment for Tribal Government Programs.”

1-4A-5 Designation of Public Health Authority. The Acoma Department of Health and Human Services is designated as the Pueblo of Acoma public health authority as defined in the Health Insurance Portability and Accountability Act, Pub. L. No. 104-191 (Aug. 21, 1996) as amended.

Origins: Pueblo of Acoma Tribal Council Resolution No. 2020-023 “Designating the Acoma Health and Human Services Department as a Public Health Authority Authorized to Collect and/or Receive Protected Health Information as Defined Under the Health Insurance Portability and Accountability Act.”

Chapter 5. GRANT OF JUDICIAL POWER TO TRIBAL COURT

1-5-1 Establishment. Pursuant to ' 1-4-3(A), Acoma Pueblo established the Acoma Pueblo Tribal Court to preserve the tranquility of the Pueblo and to administer justice in accordance with the laws of the Pueblo, both written and unwritten common laws.

Origins: 1971 Law and Order Code as amended and adopted in Tribal Council Resolution No. TC-AUG-28-96-3.

1-5-2 A General Jurisdiction Court. Except as limited in other provisions of this Title or Acoma tradition, the judicial power of the Pueblo shall be exercised by the Acoma Pueblo Tribal Court and shall extend to all cases arising under the laws of the Pueblo.

Origins: 1971 Law and Order Code as amended and adopted in Tribal Council Resolution No. TC-AUG-28-96-3.

1-5-3 Divisions of the Court.

- A. The Tribal Council, after consultation with the judges of the Tribal Court, may create divisions of the Tribal Court to hear specific types of cases.

Origins: 1985 Law and Order Code as amended and adopted in Tribal Council Resolution No. TC-AUG-28-96-3.

- 1-5-4 Alternative Dispute Resolution. The Tribal Court, with the approval of the Tribal Council, may create procedures for the mediation of any civil or criminal cases coming before the Tribal Court. The Court may refer cases involving family matters to the Fiscales.

Origins: 1985 Law and Order Code as amended and adopted in Tribal Council Resolution No. TC-AUG-28-96-3.

- 1-5-5 Appeals from the Acoma Tribal Court.

- A. Any person who disputes the validity of a final decision of the Tribal Court may submit a request for review, known as an appeal, to the Tribal Council by filing the request with the Acoma Tribal Council by filing the request with the Tribal Court and with the Governor of the Pueblo.
- B. In any pending appeal, the Tribal Council, by resolution, can delegate the authority to hear the appeal or perform other judicial tasks to others, including, but not limited to, a panel of Tribal Council members or temporary judges as selected by the Council where the Council determines a delegation to be in the best interests of justice. The scope of any delegation under this section is to be set forth in writing.
- C. The Tribal Council hereby delegates authority to receive and decide any appeal or petition for exercise of supervisory control to the Governor of the Pueblo. The Governor may request the full Tribal Council to make the final decision on any appeal or petition. Where the Governor's family is involved, the Governor shall notify the Tribal Council before any decision is made on the appeal or petition.
- D. Notice of Appeal must be filed with the Court and addressed to the Governor not later than ten (10) days from the date of the decision of the Acoma Tribal Court.
- E. The Notice of Appeal must specify the parties to the appeal, the order or judgment appealed from, and a short statement of the reason or grounds for the appeal.

- F. The judge may upon the showing of good cause require the party making the appeal to post a bond in a reasonable amount to supersede the judgment of the Acoma Tribal Court. The judge may file a Memorandum Decision outlining the case with the Acoma Tribal Council at any appeal within seven (7) days preceding the hearing.
- G. The clerk of the Acoma Tribal Court shall also serve as the clerk of the Court of Appeals. Within ten (10) working days after a Notice of Appeal is filed, the clerk shall prepare, certify, and file with the Court of Appeals all papers comprising the record of the case appealed. When applicable, the clerk shall file the notice and mail copies, to be provided by the appealing party, to all other Parties to the appeal at their last known address. A separate docket shall be maintained for the Court of Appeals in which shall be recorded each stage of the proceedings on each case appealed.
- H. In cases where the Governor requests the Acoma Tribal Council to decide the appeal, the Governor shall review the appeal and recommend a proposed resolution to the Acoma Tribal Council and also recommend whether the Acoma Tribal Council should hold a hearing on the appeal. Upon receipt of the Governor's recommendation on an appeal, the Acoma Tribal Council shall determine whether hearing oral argument before the Council would assist the Council in deciding the issues presented in the appeal. If the Acoma Tribal Council decides that a hearing should be held, it shall direct the Governor to send notice of the date, time, and location of the hearing through the Acoma Tribal Court.
- I. Any party is entitled to one postponement for cause. Upon postponement, the matter shall be reset for hearing within no more than fourteen (14) working days.
- J. All hearings granted before the Acoma Tribal Council, sitting as a Court of Appeals, shall be for review for error or conflicts with tribal custom and tradition only.
- K. The Governor or the Acoma Tribal Council will not grant any request for review unless the persons seeking review assert that legal error was committed by the Acoma Tribal Court or that the decision of the Acoma Tribal Court conflicts with tribal custom and tradition. The appeal must state what part of the Acoma Tribal Court decision is incorrect and what the correct result should be, and provide sufficient documentation of legal authority and facts in support of the appeal.

- L. All matters and cases will be decided without oral argument unless the Appellate Court, in its direction, determines otherwise.
- M. The decision of the Acoma Tribal Council on the appeal shall be final.

Origins: 1971 Law and Order Code as amended by 1985 Title II, Tribal Council Resolution No. TC-OCT-11-90-2, and Tribal Council Resolution No. TC-AUG-28-96-3, and Tribal Council Resolution No. TC-JUN-16-00-4. Tribal Council Resolution No. TC-JUN-16-00-4 amended subsections A, H, K, and L and inserted a new subsection M.

Annotations: In Section 1-5-5(B), the terms “appeal” and “other judicial tasks” refer to two different powers. The power to hear an appeal refers to the action from Tribal Court to the Tribal Council. “Other judicial tasks” refer to acts like rendering a judgment or decision-making. For example, in an appeal case, the Governor may hear the case, but the Tribal Council may exercise the judicial task of making a final decision.

In Section 1-5-5(C), the phrase “supervisory control” refers to the power of the Governor to supervise the Tribal Court in an extraordinary situation. This control is commonly used to compel a court to act within its jurisdiction, prohibit it from acting outside its jurisdiction, or reverse their extra-jurisdictional acts. This control may be exercised by filing a writ of mandamus or a petition for a writ of supervisory control. See Tribal Council Resolution No. TC-OCT-11-90-2. The power of “supervisory control” is different from the power to hear “appeals”. An appeal in this context, refers to an appeal from Tribal Court to the Tribal Council. The Governor may hear and decide the appeal at this level. The power of supervisory control, however, occurs *before* the appeals stage. The Governor may exercise this power of supervisory control while the Tribal Court exercises jurisdiction.

In Section 1-5-5(D), the phrase “ten (10) days” is interpreted as “ten (10) calendar days”. Unless otherwise specified, the word “days” is interpreted “calendar days” throughout this Title.

1-5-6

Selection of Judges.

- A. The Pueblo of Acoma Tribal Court shall consist of one Chief Judge and as many associate judges as the members of the Acoma Pueblo Council may appoint by majority vote. One of the associate judges or the Chief Judge may be designated as Judge of the

Family Division by the Chief Judge.

Nothing in this section is intended to limit judicial power granted to an official by traditional leaders to hear cases arising under traditional or common law.

- B. Judges of the Pueblo of Acoma shall be appointed by the Governor after the concurrence of the Tribal Council.
- C. Judges of the Pueblo of Acoma judiciary shall be appointed for two (2) year terms unless removed by the Council.
- D. Judges of the Pueblo of Acoma judiciary shall meet the following requirements:
 - 1. Never convicted of a felony.
 - 2. Must be twenty-five (25) years of age or more.
 - 3. Required to have knowledge of the customs, traditions, and laws of the Pueblo of Acoma.
 - 4. No judge shall be a member of the Acoma Pueblo Council.
- E. The Chief Judge, in any action pending before the Pueblo of Acoma Tribal Court, may appoint a temporary judge to hear and adjudge a particular case. Temporary judges shall meet the requirements for an Acoma judge and also have specialized knowledge of the laws pertaining to the issues of the case to be decided.
- F. The judges of the Tribal Court, after consultation with the Tribal Council, shall attend fifteen (15) hours of judicial training per year and shall provide a minimum fifteen (15) hours of training per year to tribal officers, council, and employees. Refusal of a judge to participate in these required educational and in-service training programs may warrant suspension or removal.

Origins: 1971 Law and Order Code as amended by
1985 Law and Order Code and as amended by Tribal
Council Resolution No. TC-AUG-28-96-3.

1-5-7

Removal of Judges of the Pueblo of Acoma Judiciary.

- A. Judges of the Pueblo of Acoma judiciary may be removed upon the grounds of gross misconduct or neglect of duty by the following procedures:

1. Notice of charges, as approved of by the Tribal Council Resolution, served personally on the judge.
 2. A hearing before the Tribal Council ten (10) days after service of notice.
 3. An opportunity for the judge to appear at the hearing to answer all charges.
 4. A vote for removal by an affirmative vote of not less than two-thirds (2/3) of the full Council.
- B. The decision of the Tribal Council shall be final. Any other Personnel Policies and Procedures do not apply to Judges.

Origins: 1985 Law and Order Code as revised and adopted in Tribal Council Resolution No. TC-AUG-28-96-3.

Annotations: Section (B) seems to state that some part of the Pueblo of Acoma Personnel Policies and Procedures manual apply to Judges. However, the manual does not apply to persons on “voluntary services, retainer, professional service contract, or independent contract”. The Judges of the Pueblo of Acoma Tribal Court are not employees but are contractors of the Pueblo.

1-5-8 Disqualification of Judges of the Pueblo of Acoma.

- A. A judge shall disqualify himself or herself from acting in any case where he or she has any direct interest or when any party in the proceeding is a relative by marriage or birth (to the extent of first or second cousins) or where, after diligent inquiry, a judge determines that disqualification is necessary in the interests of justice, unless otherwise directed by the Governor or Tribal Council.
- B. Disqualification of a judge may be requested by any party. The party requesting disqualification shall state his or her reasons for the request in a writing filed with the Court, or by stating those reasons in court on the record. The judge shall rule upon the disqualification or refer the petition to the Chief Judge or another judge. If no other judge can rule on the petition, it shall be referred to the Acoma Tribal Council for a decision, which can include appointment of a temporary judge to decide the matter.

Origins: 1985 Law and Order Code as revised and adopted in Tribal Council Resolution No. TC-AUG-28-96-3.

Duties and Powers of Judges of the Pueblo of Acoma.

- A. The Chief Judge or associate judges shall hear and determine all matters which are regularly filed in the Acoma Tribal Court.
- B. The judges of the Pueblo of Acoma judiciary shall have the power:
1. To issue any order, writ, or warrant for arrest or search and seizure found to be necessary and proper in a case.
 2. To issue subpoenas to compel attendance of witnesses in a proceeding before him or her and may punish for failure to comply with such subpoena.
 3. To administer oaths to persons in proceedings before him or her and, where necessary, to carry out judicial duties.
 4. To decide cases and make appropriate judgments, sanctions, and other relief and remedies.
 5. To impose, suspend, and collect fines; to hold in contempt; to impose or defer sentence or prosecution.
 6. The Chief Judge shall be responsible for the administration of the Courts, shall assign cases, and manage the Court's calendar and business. The Chief Judge may designate an associate judge to act as Chief Judge in his [or her] absence.
 7. The Chief Judge has the power to delegate authority to Court personnel during his or her absence to perform all ministerial acts including, but not limited to, issuing unopposed Court orders.
 8. To take other judicial actions as appropriate under Acoma law.
- C. The Chief Judge shall establish written procedures within the judiciary to authorize emergency police action, such as issuing search or arrest warrants. These procedures shall include designating person(s) to act for the Chief Judge in his or her absence and specify the standards to be used in deciding whether to issue a warrant.

Origins: 1971 Law and Order Code as amended by
1985 Law and Order Code as amended by Tribal Council
Resolution No. TC-AUG-28-96-3.

Annotations: Tribal Court Administrative Order No. 98-MS-04, entered February 8, 1998, provides that the Rules of Civil Procedure of the State of New Mexico are hereby adopted by this Court until such time as other rules are adopted by the Tribal Council.

1-5-10

Court Clerk Selection, Qualification, and Duties.

- A. The court clerk shall be selected by the Chief Judge in accordance with the Acoma Pueblo Personnel Policies [and Procedures Manual].
- B. The court clerk shall meet the following qualifications:
 - 1. Has never been convicted of a felony.
 - 2. Is eighteen (18) years of age or older.
 - 3. Has demonstrated competence in the skills essential to the preparation and maintenance of Court records.
 - 4. Has completed twelve (12) years of education or equivalent experience.
 - 5. To prescribe necessary and proper rules of the Court, subject to Acoma Tribal Council approval.
- C. The duties of the court clerk are:
 - 1. To supervise and keep all records, files, dockets, or other records required by law.
 - 2. To keep a record of all proceedings of the Court.
 - 3. To administer oaths.
 - 4. To collect and account for all civil penalties fines, bail or bond money, fees, or other funds which come to the Court. The court clerk shall deposit and account for all such monies in the manner prescribed by the Pueblo's Central Accounting Department.
 - 5. To assist the Court, Court officials, and residents of the Reservation in providing forms of complaints, subpoenas, warrants, and any other documents necessary to the functions of the Court.
 - 6. To perform all other functions which may be required as

directed by the judges of the Tribal Court.

Origins: 1971 Law and Order Code as amended by the 1985 Law and Order Code, as amended and adopted in Tribal Council Resolution No. TC-AUG-28-96-3.

Annotations: The bracketed information in subsection A is supplied to reflect the proper title of the Manual.

1-5-11

Records of the Acoma Pueblo Tribal Court; Keeping the Docket.

- A. The court clerk shall keep the court docket which consists of:
1. Names of each plaintiff and defendant in any civil or criminal proceedings.
 2. Character and number of the proceedings.
 3. Date of issuance or return date of any process issued therein.
 4. Appearance or default of parties summoned.
 5. Date and amount of any judgment or any other decision in the proceeding.
 6. Any appeal therefrom.
 7. Final disposition.
 8. Any other information determined to be appropriate by the Chief Judge.
- B. Copies of Court records:
1. Any party in a case may get a certified copy of the Court proceedings in that case from the court clerk upon payment of a fee, unless expressly prohibited by other laws of the Pueblo.
 2. Any person not a party to a case may request a copy of the Court proceedings, unless expressly prohibited by other laws of the Pueblo, upon showing to the Court that:
 - a. The parties consent to the request; and/or
 - b. Providing the person with certified copies is in the interests of justice, which shall then be shown by a written court order.

The person may get a certified copy of the requested Court proceedings from the court clerk upon payment of a fee.

Origins: 1985 Law and Order Code as amended and adopted by Tribal Council Resolution No. TC-AUG-28-96-3.

1-5-12 Selection, Duties and Authority of Other Court Staff.

- A. The Governor, with the approval of the Council, may appoint a tribal prosecutor. The Chief Judge of the Tribal Court may appoint a court administrator, probation and parole officers, mediators and counselors, and other officers as needed to carry out the work of the Court. Selection and appointment shall be based upon existing Acoma Pueblo Personnel Policies [and Procedures Manual]. Nothing in this section shall prevent the tribal police officers from acting as tribal prosecutors in the absence of a Tribal Council directive that a law-trained prosecutor is needed in the interests of justice.

- B. The Chief Judge, after consultation with the court administrator, if any, shall approve the qualifications, terms of employment, and compensation of such staff, except that the tribal prosecutor qualifications and compensation shall be determined by the Governor.

Origins: Pueblo Common Law as restated and adopted in Tribal Council Resolution No. TC-AUG-28-96-3.

Annotations: The bracketed information in subsection A is supplied to reflect the proper title of the Manual.

1-5-13 Bonding of Pueblo of Acoma Judiciary and Court Personnel.

- A. All judges, clerks, and other Court personnel may be bonded, at the expense of the Pueblo of Acoma, in an amount determined by the Tribal Council.

Origins: 1985 Law and Order Code as restated and adopted in Tribal Council Resolution No. TC-AUG-28-96-3.

1-5-14 Court Administration. Tribal government program procedures for accounting, procurement, and personnel processes will be used in the administration of the Court.

Origins: Pueblo Common Law as restated and adopted

Chapter 6. SOVEREIGN IMMUNITY

1-6-1 Existence of Immunity. Except as expressly required by the laws of the United States, written laws of Acoma Pueblo, or by a duly enacted resolution of the Acoma Pueblo Tribal Council, Acoma Pueblo Tribe shall be immune from suit for any action, and its officers, agents and employees shall be immune from suit for any action arising from performance of their official duties.

Origins: 1985 Law and Order Code as amended and adopted in Tribal Council Resolution No. TC-AUG-28-96-3.

1-6-2 Interpretation of Waiver. Any waiver of sovereign immunity by federal or tribal law must be expressly stated, and strictly interpreted.

Origins: Pueblo Common Law as restated and adopted in Tribal Council Resolution No. TC-AUG-28-96-3.

1-6-3 Where Waiver Exists. Where a waiver of sovereign immunity exists for actions by or against Acoma Pueblo, its officers, employees, or agents **arising from the performance of their official duties**, sovereign immunity nevertheless is not waived as to certain matters:

- A. Neither the Acoma Pueblo Tribe nor its officers or employees shall be liable for the payment of the costs or expenses of the opposing party and/or parties.
- B. Neither the Acoma Pueblo Tribe nor its officers or employees shall be required to post security by bond or otherwise for any purpose.
- C. The grant or exercise of the power to sue or be sued shall not be deemed a consent by the Pueblo to the levy of any judgment, lien, or attachment upon the property of the Pueblo other than income of chattels especially pledged or assigned.
- D. No waiver of the sovereign immunity of the Pueblo shall include a waiver to the extent of any potential liability for interest prior to judgment, except as provided by contract or for punitive damages.

Origins: 1985 Law and Order Code as amended and adopted in Tribal Council Resolution No. TC-AUG-28-96-3.

1-6-4 Bond Required. Any person or other entity filing a complaint alleging a waiver of sovereign immunity of Acoma Pueblo or its officers and employees must file with the complaint a cash or written bond or

undertaking with at least two sufficient securities subject to the jurisdiction of the Court of the Acoma Pueblo in the amount of three hundred dollars (\$300), or a greater amount as the Tribal Court may order, for the payment of any eventual costs, charges, and reasonable attorneys fees that may be awarded against the Plaintiff, if not successful in establishing a waiver of sovereign immunity.

Origins: 1985 Law and Order Code as amended and adopted in Tribal Council Resolution No. TC-AUG-28-96-3.

1-6-5 Limited Indemnification of Certain Pueblo Officials. Any Pueblo official who, by any court of competent jurisdiction, is found to be personally liable for any acts or omissions performed in his or her capacity as a Pueblo official shall be indemnified or reimbursed by the Pueblo of Acoma under the following conditions:

- A. Final Judgment. If final judgment has been rendered against the Pueblo official and money damages are due and payable to the adverse party in the lawsuit and the final judgment is not subject to appeal.
- B. Official Duties. If the Pueblo official was performing official duties and obligations at the time the claim against the official arose and did not know or could not have known his or her acts were unlawful.
- C. Tribal Officer. If the Pueblo official was a member of the Council, the Governor or other executive officer, a member of the Pueblo of Acoma judiciary or any officer thereof, law enforcement officer, including any officer having authority to make arrests under the provisions of the laws of the Pueblo, or a human or social services employee.

Origins: 1985 Law and Order Code as amended and adopted in Tribal Council Resolution No. TC-AUG-28-96-3.

Chapter 7. CENSUS COMMITTEE

1-7-1 Tribal Council Determines Membership. The Tribal Council determines membership in Acoma Pueblo.

Origins: Adopted by Tribal Council Resolution dated January 29, 1971. Tribal Council Resolution No. TC-AUG-28-96-3 revised this section.

1-7-2 Census Committee. The Tribal Council shall appoint members of the Census Committee. The Census Committee shall assist the Tribal Council

in deciding issues of tribal membership by gathering and reviewing information to be used by the Council.

Origins: Adopted by Tribal Council Resolution dated January 29, 1971. Tribal Council Resolution No. TC-AUG-28-96-3 revised this section.

1-7-3 Establishment - Office of Census - Enrollment Services. The Tribal government, having determined that updated ongoing enrollment services benefit all tribal people and that it is in the best interest of tribal government for the Pueblo to perform this function rather than the Bureau of Indian Affairs, hereby creates the Office of Census - Enrollment Services. It shall be the responsibility of the Census-Enrollment Services Office to maintain all census-enrollment records for the Pueblo of Acoma.

Origins: Adopted by Tribal Council Resolution dated January 29, 1971. Tribal Council Resolution No. TC-AUG-28-96-3 revised this section. Section 1-7-3 was adopted by Tribal Council pursuant to the Self-Determination Act, P.L. 93-638.

Chapter 8. TRIBAL RECORDS OFFICE

1-8-1 Establishment of Tribal Records Office. The Tribal Council, having determined that efficient tribal record-keeping is a benefit to all people of the Pueblo and it is in the best interest of tribal government for the Pueblo to perform this function rather than the Bureau of Indian Affairs, hereby creates the Tribal Records Office. It shall be the responsibility of the Tribal Records Office to keep accurate records concerning tribal government activities.

Origins: Created by Tribal Council pursuant to the Self-Determination Act, P.L. 93-638 and restated in Tribal Council Resolution No. TC-AUG-28-96-3.

Chapter 9. OFFICE OF REALTY AND NATURAL RESOURCES

1-9-1 Establishment of Office of Realty and Natural Resources (formerly known as the Acoma Land Office). The Tribal Council, having determined that comprehensive tribal land planning and management is a benefit to all people of the Pueblo and it is in the best interest of tribal government for the Pueblo to perform this function rather than the Bureau of Indian Affairs, hereby creates the Acoma Office of Realty and Natural Resources. It shall be the responsibility of the Acoma Office of Realty and Natural Resources to maintain good tribal land management, accurate landholding information, and comprehensive land planning efforts.

Origins: Created by Tribal Council pursuant to the Self-Determination Act, P.L. 93-638 and restated in Tribal Council Resolution No. TC-AUG-28-96-3.

Chapter 10. ACOMA BUSINESS BOARD

1-10-1 Establishment of Business Board. The Tribal Council, having considered the need to strengthen management of business enterprises owned by the Tribe, hereby creates the Acoma Business Board. The Board shall serve as the board of directors for Acoma Business Enterprises (ABE), which includes, each Acoma-owned enterprise. The Board shall provide oversight and set policy for all Acoma-owned enterprises through ABE.

Origins: The Pueblo of Acoma Tribal Council established a Tribal Business Committee in 1990 pursuant to Tribal Council Resolution No. TC-AUG-30-90-2; Committee dissolved and replaced by the Acoma Business Board in 1996 pursuant to Tribal Council Resolution No. TC-APR-17-96-2; amended by Tribal Council Resolution No. TC-APR-16-08-VIIc.

Annotations: 2008 amendment replaced the term “Pueblo” with “Tribe” in the first sentence, inserted a period after “Acoma Business Board” in the first sentence and replaced the concluding phrase, “with the purpose of providing oversight of all Pueblo-owned enterprises” with the final two sentences. 2009 replacement supplies the necessary information in brackets.

In 2015, by Resolution No. TC-JUL-31-15-VIb, the Tribal Council superseded all previous resolutions concerning the Acoma Business Board. In 2019, the Tribal Council rescinded Resolution No. TC-JUL-31-15-VIb and reaffirmed all resolutions superseded by Resolution No. TC-JUL-31-15-VIb, specifically Resolutions No. TC-APR-17-96-2 and TC-APR-16-08-VIIc.

1-10-2 Mission Statement. The Board shall provide direction, guidance, and safeguards to ensure the economic growth, and profit and prosperity and enhance the quality of life for the People of Acoma.

Origins: Tribal Council Resolution No. TC-APR-17-96-2; restated in Pueblo of Acoma Laws 1995 (1999 Supp.); amended by Tribal Council Resolution No. TC-APR-16-08-VIIc.

Annotations: 2008 amendment revised heading from “Mission” to “Mission Statement”, deleted “Pueblo of Acoma Business” immediately before “Board” in the first sentence, replaced “for future” with “and” immediately before “prosperity,” deleted “through the lands of the Pueblo” immediately after “quality of life,” and replaced “the Pueblo” with “Acoma.”

1-10-3 Purpose and Organization.

- A. The Business Board is hereby empowered to oversee all Acoma-owned business enterprises for the purpose of proper business operation, management, and development which includes, but is not limited to, furnishing strategies, guidance, planning and the formulation of budgets and policies.

- B. The Business Board shall assure that each Acoma-owned enterprise is conducted in such a way as to provide the best development of tribal resources, while collectively providing positive net income to the Tribe which would enable the Tribe to provide governmental services. The Board shall assure that enterprises are managed honestly and fairly, in a wholesome environment, and in a way to bring credibility to the Tribe.

Origins: Tribal Council Resolution No. TC-APR-17-96-2; restated in Pueblo of Acoma Laws 1995 (1999 Supp.); amended by Tribal Council Resolution No. TC-APR-16-08-VIIc.

Annotations: 2008 amendment revised heading from "Purpose" to "Purpose and Organization", replaced "Pueblo" with "Acoma," inserted "business" immediately after "Acoma-owned," and replaced "planning and budgetary and policy formulation" with "and the formulation of budgets and policies" all in subsection A. In subsection B, 2008 amendment replaced "tribally" with "Acoma," deleted "and human" immediately before "resources," inserted "collectively" immediately before "providing positive," replaced "Pueblo" with "Tribe" and added "which would enable the Tribe to provide governmental services" to the end of the first sentence. The 2008 amendment replaced "conducted" with "managed" and replaced "Pueblo" with "Tribe" in the second sentence of subsection B.

1-10-4 Board Composition.

- A. Number. The Tribal Council, after consultation with the Governor, shall appoint not more than five (5) members to the Board.

Origins: Tribal Council Resolution No. TC-APR-17-96-2; restated in Pueblo of Acoma Laws 1995 (1999 Supp.); amended by Tribal Council Resolution No. TC-APR-16-08-VIIc.

Annotations: 2008 amendment replaced "Selection" with "Number" as the heading to subsection A. 2008 amendment also replaced "Governor" with "Tribal Council" in the first clause, replaced "Tribal Council" with "Governor" immediately after "consultation with the," and deleted "Business" immediately before "Board" all in the

first sentence. 2008 amendment deleted the remaining sentence which read: "Positions 1 and 2 shall have initial terms expiring at the end of 1996. Positions 3 and 4 shall have initial terms expiring at the end of 1997. Position 5 has an initial term expiring at the end of 1998. Reappointment is permitted."

- B. Terms. Each member of the Board shall be appointed to serve for a three (3) year term, and until their replacement has been approved by the Tribal Council from names recommended by the Governor and his staff. Each term shall continue until a successor has been selected. Reappointment is permitted.

Origins: Tribal Council Resolution No. TC-APR-17-96-2; restated in Pueblo of Acoma Laws 1995 (1999 Supp.); amended by Tribal Council Resolution No. TC-APR-16-08-VIIc.

Annotations: 2008 amendment deleted "And Vacancies" from the heading," deleted the beginning phrase of the first sentence, "After the expiration of the initial term," and deleted "Business" immediately before "Board" in the first sentence. 2008 amendment added the third sentence.

- C. Vacancies. Vacancies shall be filled by the Tribal Council for the unexpired portion of that term of service.

Origins: Tribal Council Resolution No. TC-APR-17-96-2; restated in Pueblo of Acoma Laws 1995 (1999 Supp.) at §1-10-4(B); amended and restated as §1-10-4(C) by Tribal Council Resolution No. TC-APR-16-08-VIIc.

Annotations: 2008 amendment created a new subsection for "Vacancies" and inserted "by the Tribal Council," immediately after "filled."

- D. Ex-officio Members. In addition to the Board members described in 1-10-4(A), the Governor, or a member of his staff, and a Tribal Council member may serve as non-voting ex-officio members of the Business Board.

Origins: Tribal Council Resolution No. TC-APR-17-96-2; restated in Pueblo of Acoma Laws 1995 (1999 Supp.) at §1-10-4(C); amended and restated as §1-10-4(D) by Tribal Council Resolution No. TC-APR-16-08-VIIc.

Annotations: 2008 amendment removed brackets from "§1-10-4(A)."

- E. Removal. Any member of the Business Board may be removed by the Tribal Council for neglect of duty, or other good cause.

Origins: Tribal Council Resolution No. TC-APR-17-96-2; restated in Pueblo of Acoma Laws 1995 (1999 Supp.) at §1-10-4(D); restated as §1-10-4(E) by Tribal Council Resolution No. TC-APR-16-08-VIIc.

1-10-5

Powers and Duties Governing Operation of Board.

- A. Officers. The Board shall elect by majority vote for the positions of Chair, Vice-Chair, and Secretary. Such elections shall be conducted at the first regular meeting of each New Year. The Chair of the Board and Chief Executive Officer shall serve as liaisons to the Tribal Administration and Tribal Council.

Origins: Tribal Council Resolution No. TC-APR-17-96-2; restated in Pueblo of Acoma Laws 1995 (1999 Supp.) at §1-10-5(A); and amended by Tribal Council Resolution No. TC-APR-16-08-VIIc.

Annotations: 2008 amendment deleted “Business” immediately before “Board,” replaced “one of the members of the Board to serve as Chair and another to serve as Vice Chair” with “for the positions of Chair, Vice-Chair, and Secretary” in the first sentence. 2008 amendment replaced an entire second sentence with the current second sentence. Former second sentence read: “The Board shall select a Secretary and Treasurer.” 2008 amendment deleted references to “Business” first immediately before “Board” and second before “Officer” in the third sentence, and deleted “from the Board” immediately before “to the Tribal Administration”.

- B. Management: Hiring and Removal.

1. Chief Executive Officer. The Board shall hire a Chief Executive Officer who is held accountable to the Board. The Board shall evaluate the role of the CEO at least annually.

Origins: Tribal Council Resolution No. TC-APR-17-96-2; restated in Pueblo of Acoma Laws 1995 (1999 Supp.) at §1-10-5(B)(1); and amended by Tribal Council Resolution No. TC-APR-16-08-VIIc.

Annotations: 2008 amendment revised heading from “Hiring Management” to “Management: Hiring and Removal,” deleted “Business” immediately before “Officer” in the heading at subsection B(1) and in the text, deleted “Business” immediately before “Board,” replaced “responsible” with “held accountable,” and inserted the second sentence.

2. Executive Management. The Chief Executive Officer shall

hire other Executive Management, in consultation with the Board. Other members of the Executive Management Team shall be determined by the CEO.

Origins: Tribal Council Resolution No. TC-APR-16-08-VIIc.

3. Enterprise Management. For each Enterprise, the Executive Management Team shall select, in consultation with the CEO, the best management for all enterprises, consistent with Acoma Business Enterprises hiring practices and budgetary constraints. The Board will ensure that management is given proper direction and support to promote the goal of profitable and ethical conduct of each enterprise.

Origins: Tribal Council Resolution No. TC-APR-17-96-2; restated in Pueblo of Acoma Laws 1995 (1999 Supp.) at §1-10-5(B)(2); amended and restated as §1-10-5(B)(3) by Tribal Council Resolution No. TC-APR-16-08-VIIc.

Annotations: 2008 amendment revised heading from “For Each Enterprise” to “Enterprise Management,” replaced the first sentence with the current one. Former first sentence read: “The Business Board shall select, in consultation with the Chief Executive Business Officer, the best general management for each enterprise, consistent with budgetary constraints.” In the second sentence, 2008 amendment replaced “use its best efforts to see” with “ensure,” and replaced “,all toward” with “to promote.”

4. Removal. The Board, and not the Tribal Council, has the authority to terminate contracts between the Board and the CEO. There shall be no grievance procedure, except as required by a Tribal-State Gaming Compact that is in effect, or as otherwise provided by a signed written agreement. Removal of other members of the Executive Management Team shall be in accordance with written agreements or per Acoma Business Enterprises Human Resources Policy and Procedure.

Origins: Tribal Council Resolution No. TC-APR-16-08-VIIc.

- C. Business Plans and Goals. The Board shall approve an annual business plan with budgets for the Board and each enterprise. Authorizations for financial transactions shall be made as needed by the Board to implement annual business plans for each enterprise. The Board may approve changes in each Business Plan. The Governor and Tribal Council shall receive copies of the approved plans and budgets, or summaries of them by November

15th of each year.

Origins: Tribal Council Resolution No. TC-APR-17-96-2; restated in Pueblo of Acoma Laws 1995 (1999 Supp.) at §1-10-5(C); amended by Tribal Council Resolution No. TC-APR-16-08-VIIc.

Annotations: 2008 amendment replaced the first sentence with the current. Former first sentence read: “The Tribal Council shall approve an annual business plan and financial goals for the Business Board.” 2008 amendment replaced “tribally-owned enterprise and the Business Board” with “enterprise” in the second sentence. 2008 amendment added the final sentence.

- D. New Business Enterprise. The Tribal Council must approve the establishment of any new enterprise. New business enterprises require Board approval before being presented to Tribal Council.

Origins: Tribal Council Resolution No. TC-APR-16-08-VIIc.

- E. Business Organization. The Board may make organizational changes within ABE, as it deems necessary.

Origins: Tribal Council Resolution No. TC-APR-16-08-VIIc.

- F. Contracts and Leases.

1. Contracts, In General. The Board is authorized to enter into and make contracts of every kind and nature without the approval of the Pueblo of Acoma or the Secretary of Interior, except when the use of trust or federally-restricted Indian property requires such approval, and/or when specific approval is otherwise required under this Title.

Origins: Tribal Council Resolution No. TC-APR-16-08-VIIc.

2. Letters of Intent. The Board may sign non-binding Letters of Intent for the acquisition or purchase of any property, subject to Tribal Council approval of the financing acquisition or purchase within 90 days from the date of the Letter of Intent. Absent Tribal Council approval of the financing, the Letter of Intent shall become void.

Origins: Tribal Council Resolution No. TC-APR-16-08-VIIc.

3. Business entities. The Board may engage in partnerships, joint-ventures, and other types of relationships with business

entities, provided that prior written notice to the Tribal Council and Tribal Administration is given.

Origins: Tribal Council Resolution No. TC-APR-16-08-VIIc.

4. Leases. Tribal Council approval needed for any lease for lands and real property owned by the Tribe or by the United States in trust for the benefit of the Tribe. Equipment or other leases may be made by the Board. The Board may sublease real property without Council approval, but with prior notice to Governor and Tribal Council.

Origins: Tribal Council Resolution No. TC-APR-17-96-2; restated in Pueblo of Acoma Laws 1995 (1999 Supp.) at §1-10-5(D)(2)(e); amended and restated as '1-10-5(F)(4) by Tribal Council Resolution No. TC-APR-16-08-VIIc.

Annotations: 2008 amendment replaced first sentence in its entirety. Former first sentence read: "Only the Tribal Council may approve any lease for lands and real property owned by the Pueblo or by the United States in trust for the benefit of the Pueblo." 2008 amendment adds the third sentence.

- G. Borrowing Limits. Subject to the limits in this Title, the Board is authorized to incur debts and raise, borrow, and secure the payment of money in any lawful manner. Evidence of indebtedness of all kinds, whether secured by mortgage, pledge, deed of trust or otherwise will not require the approval of the Pueblo of Acoma or the Secretary of the Interior, except when the use of trust or federally restricted Indian property requires such approval, and/or when specific approval is otherwise required under this Title.

Origins: Tribal Council Resolution No. TC-APR-16-08-VIIc; amended and restated as '1-10-5(G) by Tribal Council Resolution No. TC-APR-16-08-VIIc.

Annotations: 2008 amendment deletes former §§1-10-5(D)(2)(b) "Lawsuits," (c) "Security" and (e) "Lease" from the section and renumbers the section accordingly.

1. Amount. Any liability taking more than one (1) year to repay ("long term liability") and exceeding \$1 million must be approved by the Tribal Council. All borrowing shall be approved by the Board.

Origins: Tribal Council Resolution No. TC-APR-17-96-2; restated in Pueblo of Acoma Laws 1995 (1999 Supp.) at §1-10-5(D(1)); amended and restated as '1-10-5(G)(1) by Tribal Council Resolution No. TC-APR-16-08-VIIc.

Annotations: 2008 amendment replaced this entire subsection. Former subsection read: “Long term liabilities (those taking more than one (1) year to repay) and borrowing for tribally-owned enterprises totaling over five hundred dollars (\$500,000) in any one year must be approved by the Tribal Council. Other loans may be approved by the Business Board.”

2. Liability and Security.

- a. Generally. Only assets held in the name of Acoma Business Enterprises shall be used as security for debts and liabilities connected with Enterprise activities.

Origins: Tribal Council Resolution No. TC-APR-17-96-2; restated in Pueblo of Acoma Laws 1995 (1999 Supp.) at §1-10-5(D)(2); amended and restated as '1-10-5(G)(2)(a) by Tribal Council Resolution No. TC-APR-16-08-VIIc.

Annotations: 2008 amendment replaced this entire subsection. Former subsection read: “Tribal assets shall not be liable for debts and liabilities incurred by the Business Board, except as specifically authorized in this Charter or otherwise by the Tribal Council.”

- b. Real Property. Land and buildings of Acoma-owned enterprises may not be used for security or satisfaction of creditors. However, mortgages of fee land or lease-hold interests in real property may be granted as security to the extent that they are approved by Tribal Council.

Origins: Tribal Council Resolution No. TC-APR-17-96-2; restated in Pueblo of Acoma Laws 1995 (1999 Supp.) at §1-10-5(D)(2)(d); amended and restated as '1-10-5(G)(2)(b) by Tribal Council Resolution No. TC-APR-16-08-VIIc.

Annotations: 2008 amendment replaced “Pueblo” with “Acoma” in the first sentence. 2008 amendment adds the second sentence.

H. Claims Against the Board and Enterprises.

1. In General. The Acoma Business Board and Enterprise is an arm or instrumentality of the Tribe and as such, shares the Tribe’s privileges and immunities.

Origins: Tribal Council Resolution No. TC-APR-17-96-

2; restated in Pueblo of Acoma Laws 1995 (1999 Supp.) at §1-10-5(D)(2)(b); amended and restated as '1-10-5(H) by Tribal Council Resolution No. TC-APR-16-08-VIIc.

Annotations: 2008 amendment replaced former subsection §1-10-5(D)(2)(b) with the current. Former subsection §1-10-5(D)(2)(b) read: "The Business Board is not authorized to sue or be sued. That power is reserved to the Tribal Council. The Acoma Business Board is an activity of the Pueblo and, as such, shares the Pueblo's immunity from suit. Any grant or exercise of the power to sue or be sued shall not be deemed a consent by the Pueblo to the levy of any judgment, lien, or attachment upon the property of the Pueblo other than income of personal property or accounts especially pledged or assigned."

2. No Personal Liability. Board members, officers, employees and agents of the Board shall be exempt from the debts and liabilities of the Board or Enterprises.

Origins: Tribal Council Resolution No. TC-APR-16-08-VIIc.

- I. Accounting. Accounting for all Acoma enterprises shall be performed by the Acoma Business Enterprises accounting department. Each Acoma-owned enterprise must pay its share of the necessary costs of this accounting. Each enterprise shall follow procedures, process and standards for procurement established by the Acoma Business Enterprises accounting department. The Acoma Business Enterprises accounting department shall provide each enterprise and the Board with monthly financial statements within ten working days of the following month. The financial statements shall contain, at a minimum, balance sheet, income statement, and statement of cash flows. An annual audit for the Acoma Business Enterprises, with a separate report for the Casino enterprise, shall be performed and the reports delivered to Tribal Administration and the Tribal Council by April 30 of each year for the prior year.

Origins: Tribal Council Resolution No. TC-APR-17-96-2; restated in Pueblo of Acoma Laws 1995 (1999 Supp.) at §1-10-5(E); amended and restated as '1-10-5(I) by Tribal Council Resolution No. TC-APR-16-08-VIIc.

Annotations: 2008 amendment replaced the entire subsection with the current one. Former subsection read: "Accounting for all Pueblo-owned enterprises and the Business Board shall be performed by the Pueblo's Central Accounting Department. Each Pueblo-owned enterprise must pay the necessary costs of this

accounting. Each enterprise will prepare purchase orders and approve invoices for payment in coordination with the Central Accounting Department. The Central Accounting Department shall provide each enterprise and the Business Board with monthly financial reports not later than the fifteenth day of the following month.”

J. Payment to Board Members.

1. The Business Board members shall be reimbursed for travel and other necessary expenses incurred by them in the performance of their duties at rates established by Acoma Business Enterprise Policy.
2. The Board shall be paid stipends at rates approved by the Tribal Council.

Origins: Tribal Council Resolution No. TC-APR-17-96-2; restated in Pueblo of Acoma Laws 1995 (1999 Supp.) at §1-10-5(F); amended and restated as '1-10-5(J) by Tribal Council Resolution No. TC-APR-16-08-VIIc.

Annotations: 2008 amendment divided Section I into two subsections. 2008 amendment added “at rates established by Acoma Business Enterprise Policy” to the end of subsection J(1) and deleted “Members of the Business Board shall be paid at rates approved by the Governor and the Tribal Council.” 2008 Amendment inserted a new subsection J(2).

K. Oversight by Board.

1. Other Enterprises. The Business Board shall ensure that the operation of the Acoma-owned enterprises is consistent with applicable laws, regulations and policies.

Origins: Tribal Council Resolution No. TC-APR-17-96-2; restated in Pueblo of Acoma Laws 1995 (1999 Supp.) at §1-10-5(G)(2); amended and restated as '1-10-5(K) by Tribal Council Resolution No. TC-APR-16-08-VIIc.

Annotations: 2008 amendment changed heading from “Board Oversight” to “Oversight by Board.” 2008 amendment moved former subsection G(1) “Gaming” to current subsection L(1). 2008 amendment replaced “use every effort to make sure” with “ensure,” replaced “Pueblo” with “Acoma,” and deleted “tribal” after “applicable” and added “laws.”

L. Board Compliance Duties.

1. Gaming. The Board, in cooperation with the Acoma Gaming Commission, shall ensure that the Tribal Gaming Operation is consistent with applicable laws, including the Indian Gaming Regulatory Act, the Acoma Gaming Ordinance, and the Tribal-State Gaming Compact.

Origins: Tribal Council Resolution No. TC-APR-17-96-2; restated in Pueblo of Acoma Laws 1995 (1999 Supp.) at §1-10-5(G)(1); amended and restated as '1-10-5(L) by Tribal Council Resolution No. TC-APR-16-08-VIIc.

Annotations: 2008 amendment replaced the entire subsection, previously located at subsection G(1), with the current one. Former subsection read: "The Business Board shall use every effort to make sure that the Pueblo gaming operation is consistent with applicable laws, including the Indian Gaming Regulatory Act and the Acoma Gaming Ordinance. This shall include direction and monitoring the Gaming General Manager and full cooperation with the Acoma Gaming Commission."

2. Meeting and Reports to Administration and Tribal Council. The Board shall meet with Tribal Administration and Tribal Council midyear and annually or at any time requested by the Tribal Council. The Board shall provide reports quarterly to Tribal Administration and the Tribal Council. These reports include, but are not limited to, written management reports and financial statements. These reports shall also include transfers from the Acoma Business Enterprises to the Tribe.

Origins: Tribal Council Resolution No. TC-APR-17-96-2; restated in Pueblo of Acoma Laws 1995 (1999 Supp.) at §1-10-5(H); amended and restated as '1-10-5(L)(2) by Tribal Council Resolution No. TC-APR-16-08-VIIc.

Annotations: 2008 amendment replaced the entire subsection, previously located at subsection H, with the current one. Former subsection read: "The Business Board shall meet at least quarterly with the Governor and his staff, to report on all aspects of the Pueblo-owned enterprises, and at least every six (6) months with the Tribal Council. This report will include, but not be limited to, written management reports and financial statements showing a balance sheet and income statement with actual results in comparison to current budget and last year's actual performance, for past month, quarter, and year to date."

3. Conflict of Interest and Confidentiality Statements. Each Board Member shall sign a Conflict of Interest Statement and a Confidentiality Statement annually.

Origins: Tribal Council Resolution No. TC-APR-16-08-VIIc.

- M. Coordination with Tribal Administration. The Business Board shall coordinate with the Governor and his staff, as is appropriate, to carry-out these tasks.

Origins: Tribal Council Resolution No. TC-APR-17-96-2; restated in Pueblo of Acoma Laws 1995 (1999 Supp.) at §1-10-5(I); amended and restated as '1-10-5(M) by Tribal Council Resolution No. TC-APR-16-08-VIIc.

Annotations: This section was formerly located at subsection I with a heading "Cooperation with Tribal Administration." 2008 amendment changed the heading, replaced "work and cooperate" with "coordinate" and replaced "its responsibilities" with "these tasks."

- N. Bylaws. The Business Board may create and amend its own bylaws. Copies of bylaw and any amendments must be provided to the Office of the Governor and Tribal Council.

Origins: Tribal Council Resolution No. TC-APR-17-96-2; restated in Pueblo of Acoma Laws 1995 (1999 Supp.) at §1-10-5(J); amended and restated as '1-10-5(N) by Tribal Council Resolution No. TC-APR-16-08-VIIc. Tribal Council Resolution No. TC-OCT-16-96-3A approved the Acoma Business Board Bylaws.

Annotations: This subsection was formerly located at subsection J.

1-10-6

Conflict of Interest. Board members shall neither engage in any activity, not have any interest or acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of duties required by their position on the Board. A conflict of interest occurs when circumstances create a possibility that a Board Member's duty of undivided loyalty to the board might be compromised. Should a possible conflict of interest develop for a Board Member, he or she shall provide full disclosure in writing to the Board. The other Board Members shall determine whether a conflict of interest exists. If it does, then the Board Member with a conflict of interest shall abstain from voting on any matter that may benefit such member.

Origins: Tribal Council Resolution No. TC-APR-16-08-

VIIc.

1-10-7 Disclosure of Major Transactions. The Board shall make full disclosure to Tribal Administration and the Tribal Council of any major transaction performed or entered into by the Board and the Acoma Business Enterprises. A major transaction shall mean any transaction for an amount greater than one million dollars (\$1,000,000).

Origins: Tribal Council Resolution No. TC-APR-16-08-VIIc.

1-10-8 Confidentiality. The Board shall hold in confidence all confidential and propriety information of Acoma Business Enterprises and shall not directly or indirectly report, publish, disclose, reveal, or transfer any confidential or proprietary information except as specifically authorized in writing by the Board or the Tribal Council. Termination of a Board Member shall not end that former member's obligations with respect to such information.

Origins: Tribal Council Resolution No. TC-APR-16-08-VIIc.

1-10-9 Amendment. To the extent it is consistent with general laws concerning amendment of the written law of the Tribe, written notice of any proposed amendment of this chapter must be given to all members of the Business Board, the Administration and the Tribal Council. Amendments are effective upon approval by the Tribal Council by Resolution, or a different effective date if stated in the resolution approving the amendment.

Origins: Tribal Council Resolution No. TC-APR-17-96-2; restated in Pueblo of Acoma Laws 1995 (1999 Supp.) at §1-10-6; amended and restated as '1-10-9 by Tribal Council Resolution No. TC-APR-16-08-VIIc.

Chapter 11. ACOMA EMPLOYEE'S ASSOCIATION

1-11-1 Establishment of Employee's Association. There is established the Acoma Employee=s Association (AEA), its Charter, and Bylaws. The AEA shall operate within the scope of tribal employment policies and **is not to be construed as a collective bargaining agreement.**

Origins: Tribal Council Resolution No. TC-NOV-10-99-3 as restated in Pueblo of Acoma Laws 1995 (2000); contact Human Resources Department for organizational documents.

Chapter 12. EXCLUSION

1-12-1 Exclusive Power of Tribal Council. The Tribal Council has the exclusive

power to exclude any person from the Pueblo of Acoma lands.

Origins: Adopted by Tribal Council Resolution No. TC-OCT-11-90-3. Initially codified in 1995 as Chapter 10 of Title One and restated in Tribal Council Resolution No. TC-AUG-28-96-3. With the 1999 Supplement, it was recodified as Chapter 11, and became Chapter 12 since the 2000 supplement.

1-12-2 Basis for Exclusion. A person may be excluded from the Pueblo of Acoma lands if the Tribal Council determines that a person has acted contrary to the laws of the Pueblo, refuses to abide by the laws of the Pueblo, or has acted in any other manner that threatens the public health, safety, or welfare of the people of Acoma.

Origins: Adopted by Tribal Council Resolution No. TC-OCT-11-90-3. Initially codified in 1995 as Chapter 10 of Title One and restated in Tribal Council Resolution No. TC-AUG-28-96-3. With the 1999 Supplement, it was recodified as Chapter 11, and became Chapter 12 since the 2000 supplement.

1-12-3 Exclusion Procedure. A person may be excluded from the Pueblo for just cause, in accordance with the following procedures:

- A. The tribal prosecutor or any other person may petition the Governor to require a person to come before the Tribal Council in person and show cause as to why (s)he should not be excluded from the Pueblo of Acoma.
- B. The petition must set forth specific reasons why exclusion is sought and facts in support of those reasons.
- C. After deliberations, and upon finding that the petition states sufficient reasons for exclusion, the Tribal Council shall request the Governor to send written notice to the person subject to exclusion. This notice shall be served in person or by registered mail on the person subject to exclusion.
- D. The notice to the person subject to exclusion shall include a copy of the petition showing that it was approved by the Tribal Council or by the Governor's statement of the specific reasons why exclusion is sought. The notice shall set a time and place for the person subject to exclusion to personally appear before the Tribal Council and show cause why (s)he should not be excluded from the Pueblo of Acoma not later than twenty (20) days from the date the notice is received.

- E. At the hearing, the person subject to exclusion shall be given an opportunity to be heard and to present witnesses, testimony, or other evidence on his or her behalf.
- F. After deliberating upon the reasons why exclusion was sought and the presentations made by the person sought to be excluded, the Tribal Council shall make a decision granting or denying the petition for exclusion, in whole or in part, including allowing the person subject to exclusion to continue to be present within Acoma subject to conditions placed on his or her behavior as appropriate to protect the public health, safety, or well-being of the people of the Pueblo of Acoma.
- G. The decision of the Tribal Council shall be final.

Origins: Adopted by Tribal Council Resolution No. TC-OCT-11-90-3. Initially codified in 1995 as Chapter 10 of Title One and restated in Tribal Council Resolution No. TC-AUG-28-96-3. With the 1999 Supplement, it was recodified as Chapter 11, and became Chapter 12 since the 2000 supplement.

1-12-4

Emergency Exclusion. Nothing in this law shall prevent the Governor of the Pueblo of Acoma, in emergency circumstances which pose a grave risk of harm to the Pueblo or the Pueblo community, from ordering the immediate temporary exclusion of a person from the Pueblo of Acoma for a period of time not to exceed ten (10) days. Emergency exclusion process requirements include:

- A. An order of immediate exclusion, signed by the Governor of the Pueblo, shall be given to the Tribal Police Chief who shall take all action reasonably necessary to enforce the order.
- B. The Tribal Police Chief shall serve the order of immediate temporary exclusion on the person subject to the order and, at the same time, shall serve the person subject to exclusion with notice which shall set a time and place for the person subject to exclusion to personally appear before the Tribal Council and show cause why (s)he should not be excluded permanently from the Pueblo of Acoma not later than ten (10) days from the date the notice is received.
- C. At the hearing, the person subject to exclusion shall be given an opportunity to be heard and to present witnesses, testimony, or other evidence on his or her behalf.
- D. After deliberating upon the reasons why exclusion was sought and the presentations made by the person sought to be excluded, the Tribal Council shall make a decision granting or denying the petition

for exclusion, in whole or in part, including allowing the person subject to exclusion to continue to be present within Acoma subject to conditions placed on his or her behavior as appropriate to protect the public health, safety, or well-being of the people of the Pueblo of Acoma.

- E. The decision of the Tribal Council shall be final.

Origins: Adopted by Tribal Council Resolution No. TC-OCT-11-90-3. Initially codified in 1995 as Chapter 10 of Title One and restated in Tribal Council Resolution No. TC-AUG-28-96-3. With the 1999 Supplement, it was recodified as Chapter 11, and became Chapter 12 since the 2000 supplement.

Annotations: The original Tribal Council Resolution No. TC-OCT-11-90-3, includes an additional provision requiring Law Enforcement, Prosecutor, and Tribal Court to follow supplemental procedures to limit tribal liability. That section was omitted in the 1996 Resolution adopted in Tribal Council Resolution No. TC-AUG-28-96-3.

Chapter 13. ACOMA HEALTH BOARD

- 1-13-1 Establishment of the Pueblo of Acoma Health Board. The Tribal Council, having considered the need to continuously improve the quality and delivery of health care services for the Acoma Community in light of increasing health concerns, increasing cost and demand for basic health care services, and the need for improved efficiency and collaborative effort of all Acoma health initiatives, hereby creates the Acoma Health Board. The Board shall serve as the Board of Directors for Haak'u Health which includes all Pueblo of Acoma healthcare initiatives not operated by another specific Pueblo of Acoma agency or department.

Origins: Enacted by Tribal Council Resolution No. TC-AUG-27-03-VE.

Annotations: Tribal Council Resolution No. 2023-21 amended this provision to add, "The Board shall serve as the Board of Directors for Haak'u Health which includes all Pueblo of Acoma healthcare initiatives not operated by another specific Pueblo of Acoma agency or department," and added several descriptive words to the first few sentences, including replacing "Acoma people" with "Acoma Community."

1-13-2 Mission.

- A. The Acoma Health Board shall provide direction, guidance, and support in meeting the healthcare needs of the Acoma Community; and

- B. The Acoma Health Board shall be responsible for coordinating all Pueblo of Acoma programs providing health care services to the Acoma Community; and
- C. The Board shall review and approve for presentation to the Tribal Administration and Tribal Council any new health programs or expansion of existing programs to be provided by any Pueblo of Acoma agency or department.
- D. To serve as the Board of Directors for Haak'u Health, which includes all Pueblo of Acoma healthcare initiatives not operated by a specific Pueblo of Acoma agency or department.

Origins: Enacted by Tribal Council Resolution No. TC-AUG-27-03-VE. Acoma Department of Health and Human Services assumed duties of Acoma Health Department through TC Resolution 2017-051.

Annotation 1: Tribal Council Resolution No. 2023-21 substantially expanded the Mission by adding provisions B and C and replaced "Acoma people" with "Acoma Community."

Annotation 2: Tribal Council Resolution No. 2024-005 d approving the Acoma Health Board Bylaws dated February 28, 2024, added a provision under the Acoma Health Board "Mission and Purposes" to include a mission to serve as the Board of Directors for Haak'u Health, and provided that to the extent this Title was inconsistent with the provisions of the Bylaws and Resolution, the Bylaws and Resolution shall control.

1-13-3

Purpose.

- A. The Acoma Health Board shall provide direction, guidance, and support to Pueblo of Acoma programs with respect to planning, developing and implementing policies and projects that:
 - 1. Develop, analyze, and evaluate health service delivery models that are specific to the Acoma Community to achieve outcomes of increased access to, and delivery of, quality health and overall well-being; and
 - 2. Position Acoma favorably to participate in future health services systems development and implementation; and
 - 3. Strengthen Acoma's capacity to evaluate its health service systems' effectiveness; and

4. Develop information to assist Acoma and other policymakers, agencies and program planners working in the area of health to improve systems for Native American populations; and
5. Strengthen financial accountability, diversify funding and leverage federal and other funding to improve healthcare services at Acoma.

Annotation 1: Tribal Council Resolution No. 2023-21 amended this provision by replacing, “work with the Acoma [Health and Human Services Department]” with “provide direction, guidance, and support to Pueblo of Acoma programs with respect to planning, developing and implementing policies and projects” listed in the numbered paragraphs following (with no further material changes).

Annotation 2: Tribal Council Resolution No. 2024-005 approving the Acoma Health Board Bylaws dated February 28, 2024, effectively added the tasks of analyzing and evaluating health service delivery to Section A (1) by providing that to the extent this Title was inconsistent with the provisions of the Bylaws and Resolution, the Bylaws and Resolution shall control. amended A.1.

B. Acoma Health Board Relationship to Indian Health Service on behalf of the Pueblo of Acoma.

1. The Acoma Health Board shall consult and collaborate with the U.S. Indian Health Service Programs serving the Acoma Community to avoid unnecessary duplication of services or the loss of services and shall have the authority to negotiate Pueblo of Acoma contracts with the U.S. Indian Health Service on behalf of the Pueblo of Acoma; and
2. The Chairman of the Health Board and any other Board members designated by the Governor shall serve with Governor as the primary contact for the Pueblo of Acoma with the Indian Health Service; and
3. In January of each year, the Governor and staff will identify Board members who will represent Acoma on the Indian Health Service ACL Service Unit Health Board or any successor thereof for a term of one year and notify the Albuquerque Area Indian Health Service Director and the Tribal Council of these appointments in writing; and

4. Membership on the Indian Health Service, ACL Service Unit Health Board. Acoma's membership on the ACL Service Unit Health Board or any successor thereof (ACL Health Board) shall be proportionate to the number of Acoma shares remaining at ACL.

Origins: Enacted by Tribal Council Resolution No. TC-AUG-27-03-VE. Acoma Department of Health and Human Services assumed duties of Acoma Health Department through TC Resolution 2017-051. In response to the public health emergency created by the Indian Health Services' decision to downgrade Acoma-Canoncito-Laguna Hospital to an ambulatory clinic, the Tribal Council responded by enacting Resolution No. TC-2021-018 "Authorizing and Acknowledging the Re-Establishment of, Appointment of, the Actions by and Bylaws of the Pueblo of Acoma Health Board. Section 4 of Resolution No. TC-2021-018 supplemented the Purposes of the Board:

"The Pueblo of Acoma Health Board shall advise and assist the Tribal Council, Tribal Administration, and the Department of Health and Human Services in:

- a. Seeking sufficient funding from the United States or other entities to keep ACL in operation as a hospital for a period of time sufficient to allow for the completion of assessments and investigations necessary for decision-making, and
- b. Assessing the health care needs in the Pueblo of Acoma Community, and
- c. Investigating the effectiveness of existing health care services at ACL and any changes to those proposed by the Indian Health Service, and
- d. Investigating the effectiveness of health care delivery programs in other tribal communities, and
- e. Decision-making concerning how to best provide health services with the goal of improving the health and well-being of the Pueblo of Acoma community in the future."

Annotations: Tribal Council Resolution No. 2023-21 amended this provision by replacing "Three (3) representatives of the Acoma Health Board will also serve as Acoma's representatives to the Acoma-Canoncito-Laguna Health Board (ACL Health Board)," with Section B, and also deleted "Duties and responsibilities are in accordance to the By-Laws established by the ACL Health Board."

1-13-4 Board Composition.

- A. Selection. The Tribal Council, after consultation with the Governor, shall appoint eight (8) members to the Acoma Health Board.

Annotations 1: Tribal Council Resolution No. 2023-21 amended this provision to replace “Governor” with “Tribal Council,” and “Tribal Council” with “Governor.”

Tribal Council Resolution No. TC-2021-18 increased the number of members on the Acoma Health Board from 5 to 8; added a 2 year initial term for Board members; added the provision, “Thereafter, the Governor shall appoint Board members to staggered terms”; and adjusted the staggered terms such that Positions 1-3 have terms expiring at the end of 1 year, Positions 4 - 6 have terms expiring at the end of 2 years and Positions 7 and 8 have terms expiring at the end of 3 years.

Annotations 2: Tribal Council Resolution No. 2024-005 approving the Acoma Health Board Bylaws dated February 28, 2024, effectively changed this section, and provided that to the extent this Title was inconsistent with the provisions of the Bylaws and Resolution, the Bylaws and Resolution shall control.

B. Terms. All Board members shall serve an initial term of two (2) years. After the expiration of the initial two (2) year term, or the resignation of the member, each board member shall serve a staggered term as follows until a replacement has been approved by the Tribal Council from names recommended by the Governor:

1. Positions 1, 2, and 3 shall have one (1) year terms;
2. Positions 4, 5 and 6 shall have two (2) year terms; and
3. Positions 7 and 8 shall have three (3) year terms.
Reappointment is allowed.

Annotations: Tribal Council Resolution No. 2023-21 amended this provision to replace “[A]fter the expiration of the initial term, each member of the Acoma Health Board shall serve for a three (3) year term, and until their replacement has been approved by the Tribal Council from names recommended by the Governor and his staff,” with, “[A]fter the expiration of the initial two-year term, or the resignation of a member, each member shall serve in accordance with 1-13-4(A) until their replacement has been approved by the Tribal Council from persons recommended by the Governor and his staff.”

C. Vacancies. Reappointment of members is allowed. If a member dies, the Board shall immediately request the appointment of new member by the Tribal Council. The Board shall provide the Governor and the Tribal Council with names of potential Board members each

year.

Annotations: Tribal Council Resolution No. 2023-21 added, “[i]f a member dies, the Health Board shall immediately request the appointment of a new Board Member by the Tribal Council. The Acoma Health Board shall provide the Governor and Tribal Council with the names of potential Board members each year,” and deleted, “Each term shall continue until a successor has been selected. Vacancies shall be filled for the unexpired portion of that term of service.”

- D. Ex-officio Members. In addition to the Board members described [in 1-13-4(A)], one (1) member of the Tribal Administration appointed by Tribal Administration, and two (2) Tribal Council members by Tribal Council shall be appointed annually as ex-officio members of the Acoma Health Board. Ex Officio members shall be nonvoting members of the Board. Ex Officio members shall provide guidance, expertise and liaison services between the Board, Tribal Council and Tribal Administration.

Annotation 1: Tribal Council Resolution No. TC-2021-18 replaced “Governor or a member of his staff” with “1 member of the Tribal Administration” and replaced “a” with “2” Tribal Council members, regarding mandatory ex-officio appointments.

Annotation 2: Tribal Council Resolution No. 2024-005 approving the Acoma Health Board Bylaws dated February 28, 2024, amended the responsibilities of Ex-Officio members of the Board and provided that to the extent this Title was inconsistent with the provisions of the Bylaws and Resolution, the Bylaws and Resolution shall control.

- E. Resignation. Resignation from the Board shall be in writing to the Tribal Council stating the reasons and shall be presented to the Board at its regularly scheduled meeting. Resignations are effective upon acceptance by the Board at a regular or special meeting. The Board will acknowledge the resignation, noting the same in the minutes, and shall immediately notify the Tribal Council of the vacancy for purposes of appointing a successor to serve the remaining term. The Board shall recommend to the Tribal Council a replacement(s) for any vacant position. The Tribal Council shall replace vacancies on the Board to ensure continuity of Board activities.
- F. Removal. Any member of the Board may be removed by the Tribal Council in consultation with the Governor for violation of policies

established by the Board, confidentiality provisions, neglect of duty or good cause.

Annotation 1: Tribal Council Resolution No. 2023-21 added “in consultation with the Governor after “Tribal Council.” Tribal Council Resolution No. 2023-21 amended this section to delete what was previously paragraph E, “ACL Health Board. In January of each year, the Governor and his staff will identify representatives to the ACL Health Board from the existing Acoma Health Board for a one-year term”. The origin was; enacted by Tribal Council Resolution No. TC-AUG-27-03-VE.

Annotation 2: Tribal Council Resolution No. 2024-005 approving the Acoma Health Board Bylaws dated February 28, 2024, effectively restated and expanded the grounds for removal of a Board Member and provided that to the extent this Title was inconsistent with the provisions of the Bylaws and Resolution, the Bylaws and Resolution shall control.

1-13-5 Powers and Duties Governing Operation of Acoma Health Board.

- A. Officers. The Acoma Health Board shall elect by majority vote one of the members to serve as Chair, one as Vice-Chair, and one as Secretary. The Chair and the Vice-Chair shall serve as liaisons from the Board to the Tribal Administration and Tribal Council.

Annotations:. Tribal Council Resolution No. 2024-005 approving the Acoma Health Board Bylaws dated February 28, 2024, effectively revised the duties of each officer and provided that to the extent this Title was inconsistent with the provisions of the Bylaws and Resolution, the Bylaws and Resolution shall control. .

- B. Management: Hiring and Removal.
1. CEO. The Board shall hire a Chief Executive Officer (CEO) of Haak’u Health. The Board shall evaluate the role and job performance of the CEO at annually.
 2. Executive Management Team. The CEO shall hire other Executive Management as approved by the Board.
 3. Program Management. Subject to Board approval, the CEO shall establish hiring and accounting practices in line with budgetary constraints for all health care initiatives not performed by an existing Pueblo of Acoma program. The Board will ensure that management is given proper direction and support to promote the goals and mission of the Board.

The CEO shall also establish policies and procedures necessary for Haak'u Health, including human resources and procurement policies, which shall be subject to Board approval.

Annotations: Tribal Council Resolution No. 2024-005 approving the Acoma Health Board Bylaws dated February 28, 2024, effectively amended this section to add the establishment of policies and procedures to the responsibilities of the CEO and provided that to the extent this Title was inconsistent with the provisions of the Bylaws and Resolution, the Bylaws and Resolution shall control. .

4. Removal. The Board shall have the authority to terminate any employment agreement entered into by the Board, including that between the Board and the CEO. Removal of other members of the Executive Management Team shall be in accordance with written agreements or pursuant to any Haak'u Health Human Resources Policy or Procedure.

Annotations: Tribal Council Resolution No. 2023-21 amended this provision to add "Hiring and Removal" after "Management." The Resolution replaced "Acoma Health Board shall function in an advisory capacity to the staff of the Acoma Health Department and shall not oversee personnel decisions or those involving financial transactions. The Acoma Health Board shall directly report to the Governor or his designee" with what is now B(1)-(4).

C. Strategic and Operational Plans.

1. The Acoma Health Board shall develop a Pueblo-wide strategic healthcare plan and plan of operation with at least a two (2) year planning horizon for improving access to and the delivery of quality health care and improving the well-being of the Acoma Community. The Acoma Health Board Strategic Plan shall be submitted to the Tribal Administration in consultation with the Tribal Council for review and approval by the Tribal Council in consultation with the Tribal Administration. The Acoma Health Board's Strategic Healthcare Plan shall include the strategic and plans of operation for health care initiatives created by each Acoma Department or program providing health care to the Acoma Community.
2. The Acoma Health Board shall review and approve program specific strategic plans and plans of operation for healthcare initiatives of each Acoma department of program providing health care to the Acoma Community. Each strategic plan

and plan of operation shall address the minimum requirements of the Acoma Health Board Strategic and Operational Plans as set forth in this subsection.

3. The Acoma Health Board Strategic Healthcare Plan shall consist of at minimum of:
 - a. an analysis of the existing and projected health conditions of the Acoma Community;
 - b. an analysis if the current costs for health care services and available funding from all known sources; and
 - c. a review of the quality of service provided by the IHS Service Unit and tribal healthcare programs; and
 - d. proposed changes to health care initiatives at Acoma over a two (2) year period.

4. The Acoma Health Board Two-Year Plan of Operation shall consist of:
 - a. goals and objectives for the two fiscal years based on the Strategic Healthcare Plan;
 - b. a work plan that outlines the actions and activities to accomplish the goals and objectives; and
 - c. a proposed budget for the next two fiscal years.

Annotations: Tribal Council Resolution No. 2023-21 amended this provision to remove “1. Strategic Plan. The strategic plan shall consist of at a minimum: (i) an analysis of the existing and projected health conditions of the Acoma people; (ii) an analysis of the current health care costs and available federal funding; and (iii) a review of the quality of service provided by the local Indian Health Service Unit (ACL Hospital) and tribal health programs. 2. Annual Plan. The annual plan of operation shall consist of (i) goals and objectives for that fiscal year; (ii) a work plan that outlines the actions and activities to accomplish the goals and objectives; and (iii) a proposed budget for that fiscal year” and replaced those provisions with the current provisions regarding “Strategic and Operational Plans”.

- D. New Healthcare Initiatives. Based upon the Acoma Health Board Strategic Plan and plan of Operations, the Tribal Council shall approve the establishment of any new department or program health initiative.

Annotations: Tribal Council Resolution No. 2023-21 amended this provision to add a new paragraph D (New Healthcare Initiatives) and move an amended version of the previous paragraph D (Meetings and Reports to Governor and Tribal Council) to paragraph K.

- E. Organization. The Acoma Health Board may make organizational changes within Haak'u Health as it deems necessary.

Annotations: Tribal Council Resolution No. 2023-21 amended this provision to add a new paragraph E (Organization) and move an amended version of the previous paragraph E (Payments to Board Members) to paragraph L.

F. Contracts and Leases.

1. Contracts in General. The Acoma Health Board is authorized to enter into and make contracts of every kind and nature without the approval of the Pueblo of Acoma or the Secretary of the Interior, except when the use of trust or federally restricted Indian property requires such approval, and/or when specific approval is required under this Chapter.
2. Letters of Intent. The Acoma Health Board may sign non-binding Letters of Intent for the acquisition or purchase within Ninety (90) days from the date of the Letter of Intent. Absent Tribal Council approval of the financing, the Letter of Intent shall be void.
3. Other Entities. The Board may engage in partnerships, joint ventures and other types of relationships with other entities, provided that prior written notice is given to the Tribal Council and the Tribal Administration.
4. Leases. Tribal Council approval is required for any lease for real property owned by Acoma or by the United States in trust for the benefit of Acoma. Equipment or other leases may be entered into by the Board. The Board may sublease real property without Council approval, but with prior notice to Governor and Tribal Council.

Annotations: Tribal Council Resolution No. 2023-21 amended this provision to add a new paragraph F (Contracts and Leases) and move an amended version of the previous paragraph F (Bylaws) to paragraph M.

- G. Borrowing Limits. Subject to the limits set out in this Chapter, the Board is authorized to incur debts and raise, borrow and secure the payment of money in any lawful manner. Evidence of indebtedness of all kinds, whether secured by mortgage, pledge, deed of trust or otherwise will not require the approval of the Pueblo of Acoma or the Secretary of Interior, except when the use of trust or federally

restricted Indian property requires such approval, and/or when specific approval is otherwise required under this Chapter.

1. Amount. Any liability taking more than one (1) year to repay (“long term liability”) and exceeding One Million Dollars (\$1 Million) must be approved by the Tribal Council. All borrowing shall be initially approved for submission to the Tribal Council by the Board.
2. Liability and Security.
 - a. Generally. Only assets held in the name of Haak’u Health shall be used as security for debts and liabilities connected with Haak’u Health activity.
 - b. Real Property. Land and buildings of Acoma governmental entities or those owned by Acoma enterprises may not be used for security or satisfaction of creditors. However, mortgages of fee land or leasehold interests in real property may be granted as security to the extent that they are approved by the Tribal Council.

Annotations: Tribal Council Resolution No. 2023-21 amended this section to add a new paragraph G (Borrowing Limits).

H. Claims Against the Board.

1. In General. The Acoma Health Board is an arm or instrumentality of the Pueblo and as such, shares Acoma’s privileges and immunities.
2. No Personal Liability. Board members, officers, employees, and agents of the Board shall be exempt from the debts and liabilities of the Board or Haak’u Health.

Annotations: Tribal Council Resolution No. 2023-21 amended this section to add a new paragraph H (Claims Against the Board).

- I. Accounting. Accounting for the Board shall be performed by Acoma general accounting offices unless or until the Acoma Health Board retains a Chief Financial Officer to manage the financial operations of the Board. In lieu of a Chief Financial Officer, the Board and Chief Executive Officer can contract with an experienced and reputable certified public accounting firm to perform the duties of a Chief Financial Officer.

Annotations: Tribal Council Resolution No. 2023-21 amended this section to add a new paragraph I (Accounting).

- J. Duties of a Chief Financial Officer. A Chief Financial Officer shall be a certified public accountant and shall be responsible for performing all accounting for the Acoma Health Board, and shall establish procedures, processes and standards for procurement and payment of personnel. The Chief Financial Officer shall provide the Board with monthly financial statements within ten (10) working days of the beginning of the following month. The financial statements shall contain, at a minimum, balance sheet, income statement, and statement of cash flows. The Chief Financial Officer shall be responsible for preparation of an annual audit for Health Board initiatives and programs not performed by other Acoma departments or programs, and shall deliver reports to the Acoma Health Board, the Tribal Administration, and the Tribal Council by April 30 of each year for the prior year.

Annotations: Tribal Council Resolution No. 2023-21 amended this section to add a new paragraph J (Duties of a Chief Financial Officer).

- K. Meetings and Reports to Governor and Tribal Council. The Acoma Health Board shall meet at least quarterly with the Tribal Administration to report on progress made in implementing the strategic and operational plans, and at least every six (6) months with the Tribal Council. These reports will include, but not be limited to written management reports of Acoma Departments and programs providing health services in the Acoma Community and the IHS Service Unit, and financial statements showing the Acoma Health Board's performance to budget.

Annotations: Tribal Council Resolution No. 2023-21 amended this section to add a new paragraph K. "Meetings and Reports to Tribal Administration and Tribal Council" that was previously paragraph D.

- L. Payment to Board Members. Acoma Health Board members shall be paid a stipend for meetings attended and shall be reimbursed for travel and other necessary expenses incurred by them in the performance of their duties. Health Board Members shall be paid at rates and frequency approved by the Governor and the Tribal Council.

Annotations: Tribal Council Resolution No. 2023-21 amended this section to add a new paragraph L. "Payment to Board Members" was previously paragraph E.

M. Bylaws. The Acoma Health Board may create and amend its own bylaws.

Origins: Enacted by Tribal Council Resolution No. TC-AUG-27-03-VE as paragraph F.

Annotation 1: Tribal Council Resolution No. 2023-21 amended this section to add a new paragraph M on “Bylaws” (previously paragraph F). The Resolution deleted “The Acoma Health Board Bylaws (“Bylaws”) shall control if any provisions of this Chapter are inconsistent with the Bylaws. Copies of bylaws and any amendments must be provided to the Office of the Governor and Tribal Council.”

Annotation 2: Amended by Tribal Council Resolution No. 2021-018. To provide that the Bylaws shall control if any provisions of this Chapter are inconsistent with the Bylaws. The following Bylaws of the Health Board of the Pueblo of Acoma were approved by Tribal Council Resolution 2021-023.

Annotation 3: Tribal Council Resolution No. 2024-005 amended this section. The Resolution provides that “To the extent that any provision in Title I, Chapter 13 is inconsistent with the provisions of this Resolution and the Bylaws approved by this resolution, the Resolution and Bylaws shall control.”

BYLAWS OF THE HEALTH BOARD PUEBLO OF ACOMA

Article 1.0 – Name

1.1 The name of this body shall be the Pueblo of Acoma Health Board (hereinafter referred to as “Board”).

Article 2.0 – Mission and Purposes

- 2.1 To serve as the Board of Directors for Haak’u Health, which includes all Pueblo of Acoma healthcare initiatives not operated by a specific Pueblo of Acoma agency or department.
- 2.2 To coordinate all Pueblo of Acoma programs providing healthcare services to the Pueblo of Acoma Community.
- 2.3 To review and approve for presentation to the Tribal Administration and Tribal Council any new health programs or expansion of existing programs to be provided by any Pueblo of Acoma agency or department.
- 2.4 To provide advice and assistance to the Tribal Administration and Tribal Council on matters directly related to the goals of improving the health status of tribal members.

- 2.5 To provide direction, guidance, and support to the Pueblo of Acoma programs with respect to planning, developing, and implementing policies that:
 - 2.5.1 Develop, analyze and evaluate health service delivery models that are specific to the Pueblo of Acoma to achieve outcomes of increased access to and delivery of quality care and overall well-being;
 - 2.5.2 Position the Pueblo of Acoma favorably to participate in future development and implementation of health services systems;
 - 2.5.3 Strengthen the Pueblo of Acoma's capacity to evaluate the effectiveness of the Pueblo of Acoma's health service system;
 - 2.5.4. Develop information to assist the Pueblo of Acoma and other policy makers, agencies and program planners working in the area of health to improve systems for Native American populations; and
 - 2.5.5 Strengthen financial accountability, diversify funding and leverage federal and other funding to improve healthcare services at the Pueblo of Acoma.
- 2.6 To have a relationship with the Indian Health Service on behalf of the Pueblo of Acoma that shall require:
 - 2.6.1 Consulting and collaborating with the U.S. Indian Health Service Programs serving the Pueblo of Acoma Community to avoid unnecessary duplication of services or the loss of services and to negotiate Pueblo of Acoma contracts with the U.S. Indian Health Service on behalf of Pueblo of Acoma;
 - 2.6.2 The Chairman of the Board and any other Board members designated by the Governor to serve with the Governor as the primary contact for the Pueblo of Acoma with the Indian Health Service;
 - 2.6.3 In January of each year, the Governor and staff to identify Board members who will represent the Pueblo of Acoma on the Indian Health Service ACL Service Unit Health Board or any successor thereof for a term of one year and notify the Albuquerque Area Indian Health Service Director and the Tribal Council of these appointments in writing; and
 - 2.6.4 Membership on the Indian Service Health, ACL Service Unit Health Board, where the Pueblo of Acoma's membership on the ACL Service Unit Health Board or any successor thereof (ACL Health Board) shall be proportionate to the number of Pueblo of Acoma shares remaining at ACL.
- 2.7 To perform other duties as set forth in the Pueblo of Acoma Health Board Charter of 2003, Tribal Council Resolution No.

2021-018, and Tribal Council Resolution 2023-021.

2.8 Promote the Pueblo of Acoma's health improvement initiatives.

Article 3.0 – Board Membership

3.1 Size and Composition

The Board shall consist of eight (8) members. Members shall be appointed by the Tribal Council, after consultation with the Governor. The Board shall elect by majority vote one of the members to serve as Chair, Vice-Chair, and one as Secretary as specified further in Article 4 of these Bylaws. The Chair and Vice-Chair shall serve as liaisons from the Board to Tribal Administration and Tribal Council.

3.1.1 Ex Officio Members

The Board shall consist of two (2) ex officio members of the Tribal Council appointed by Tribal Council. The Board shall also consist of one (1) member of Tribal Administration appointed by Tribal Administration. Ex Officio members shall be nonvoting members of the Board. Ex Officio members shall provide guidance, expertise and liaison services between the Board, Tribal Council and Tribal Administration.

3.2 Stipends and Reimbursement

Board members will receive a stipend for meetings attended and shall be reimbursed for travel and other necessary expenses incurred by them in performance of their duties. Employees of the Pueblo are not eligible for stipends.

3.3 Payment to Board Members

Board members shall be paid at rates and frequency approved by the Governor and Tribal Council.

3.4 Term

Initial Board members shall serve a two (2) year term. After the expiration of the initial two (2) year term, or resignation of the member, each board member shall serve a staggered term as follows and until a replacement has been approved by the Tribal Council from names recommended by the Governor: Positions 1, 2, and 3 shall have one (1) year terms, Positions 4, 5, and 6 shall have two (2) year terms, and Positions 7 and 8 shall have three (3) year terms. Positions shall be identified by the Tribal Council. Reappointment is allowed. If a member dies, the Board shall immediately request the appointment of a new member by the Tribal Council. The Board shall provide the Governor and Tribal Council with the names of potential Board members each year.

3.5 Attendance

Board members are expected to regularly attend scheduled meetings. Any Board member who is absent from three Board meetings, within any twelve (12) month period, without an excused absence, shall be subject to removal from the Board by the Tribal Council as specified further in Section 3.7. Excused absences are at the discretion of the Chair, or Vice-Chair in

absence of the Chair.

3.6 Resignation

Resignation from the Board shall be in writing to the Tribal Council stating the reasons and shall be presented to the Board at its regularly scheduled meeting. Resignations are effective upon acceptance by the Board at a regular or special meeting. The Board will acknowledge the resignation, noting the same in the minutes, and shall immediately notify the Tribal Council of the vacancy for purposes of appointing a successor to serve the remaining term. The Board shall recommend to the Tribal Council a replacement(s) for any vacant position. The Tribal Council shall replace vacancies on the Board to assure continuity of Board activities.

3.7 Removal

Any member of the Board may be removed by the Tribal Council in consultation with the Governor for violation of policies established by the Board, confidentiality provisions, neglect of duty or good cause.

3.8 Conflicts of Interest and Confidentiality

3.8.1 Employees of the Pueblo of Acoma Health and Human Services Division, including their spouses or significant others, shall be excluded from nomination or appointment to the Board to avoid conflicts of interest. Indian Health Service, Bureau of Indian Affairs and Bureau of Indian Education employees shall obtain clearance from their agency prior to serving. All Board members shall put the interests of the Board before any personal interest in carrying out their duties and shall avoid any real and apparent conflicts of interest. A conflict of interest arises when circumstances create a possibility that a Board member's undivided loyalty to the Board might be compromised, such as but not limited to circumstances when a Board member or their immediate family has a financial interest in the outcome of the Board action, or when the action concerns the conduct of the member or member's immediate family. When a Board member becomes aware of an actual or potential conflict of interest, that member(s) shall have a duty to disclose the conflict of interest in writing to the Board prior to deliberations on the matter in question and the Board shall make the determination as to whether the member has a conflict of interest in the matter. If the Board determines there is a conflict of interest the interested member shall abstain from voting on that matter. The minutes of the Board meeting shall reflect disclosure of any conflict of interest and the recusal of the interested member.

3.8.2 Board members shall hold in confidence all confidential and proprietary information of the Pueblo and the Board and shall not directly or indirectly report, publish, disclose, reveal, or transfer any confidential or proprietary information except as specifically authorized in writing by the Tribal Council. Board members shall be bound by Federal laws regarding protection of personal health information, including under Health Insurance Portability and Accountability Act (HIPAA). Termination of a Board member's tenure on the Board shall not end his or her obligations with respect to such information. Each Board

member shall execute a Non-Disclosure Agreement covering all confidential or proprietary information provided to the Board.

Article 4.0 – Officers

4.1 Election

Board members will elect a Chair, Vice-Chair and Secretary at the first annual meeting. The initial officers selected will serve for two (2) year term beginning on the date of selection. After the initial two (2) year period, Board members will elect officers annually at the first Board meeting of the year. If any officer position becomes vacant, the remaining Board members shall designate a meeting at which a special election for a replacement will occur. Election of officers cannot occur unless three-quarters of the Board members are present.

4.2 Chair Duties

4.2.1 The Chair shall coordinate with Board members to develop an agenda and shall preside at all Board meetings.

4.2.2 The Chair may also represent the Board at meetings on the Pueblo and throughout the state and nation and will report back to the Board, Tribal Administration and Tribal Council regarding such meetings.

4.3 Vice-Chair Duties

4.3.1 The Vice-Chair shall preside at all regular Board meetings in the absence of the Chair.

4.3.2 The Vice-Chair shall represent the Chair at meetings, when requested, and will report back to the Board, Tribal Administration and Tribal Council regarding such meetings.

4.3.3 The Vice-Chair will perform other duties as may be prescribed by the Chair or the Board.

4.4 Secretary Duties

4.4.1 The Secretary will ensure that member contact information is maintained and minutes are taken at all Board meetings, will present the minutes at a subsequent meeting for adoption by the Board, and will assure retention of the minutes.

4.4.2 The Secretary will assure that all notices specified in these bylaws are duly given in accordance with these bylaws.

4.4.3 The Secretary shall maintain all formal records and decisions of the Board, including final recommendations made by the Board.

4.4.4 The Secretary will ensure that a report of the Board's activities and other reports, or documents will be submitted as required by Tribal Law or as requested by the Tribal Administration or Tribal Council.

Article 5.0 – Powers and Duties Governing Operation of the Board

5.1 Management. Hiring and Removal

5.1.1 The Board shall hire a Chief Executive Officer, (CEO), of Haak'u Health and shall evaluate the role and job performance of the CEO annually.

5.1.2 The CEO shall hire other Executive Management,

including the Chief Financial Officer (CFO), as approved by the Board.

5.1.3 Subject to Board approval, the CEO shall establish hiring and accounting practices in line with budgetary constraints for all health care initiatives not performed by an existing Pueblo of Acoma program with direction and support provided by the Board regarding its goals and mission. The CEO shall also establish policies and procedures necessary for Haak'u Health, including human resources and procurement policies, which shall be subject to Board approval.

5.1.4 The Board has authority to terminate any employment agreement it enters into, including that between the Board and the CEO. Removal of other members of the Executive Management Team shall be in accordance with written agreements or pursuant to any Haak'u Health Human Resources Policy or Procedure.

5.2 Strategic and Operational Plans

The Board shall develop a Pueblo-wide Strategic Healthcare Plan and Operational Plan in accordance with Title 1, Chapter 13, Section 1-13-5(C) of the Pueblo of Acoma Laws.

5.3 New Healthcare Initiatives

Based on the Board's Strategic Plan and Operational Plan, the Tribal Council shall approve the establishment of any new department or program health initiative.

5.4 Negotiation and Administration of Agreements with the Indian Health Service

The Board has the authority to prepare for, negotiate, enter into and administer any new Title I Contracts and/or Title V Compacts with the Indian Health Service, including Contracts and Compacts to take over administration of the ACL facility.

5.5 Organization

The Board may make organizational changes within Haak'u Health as it deems necessary.

5.6 Contracts and Leases

The Board has authority to enter into and make contracts without approval of the Pueblo of Acoma or the Secretary of the Interior in accordance with Title 1, Chapter 13, Section 1-13-5(F) of the Pueblo of Acoma Laws.

5.7 Borrowing Limits

Subject to the limits set forth in Title 1, Chapter 13, Section 1-13-5(G) of the Pueblo of Acoma Laws, the Board is authorized to incur debts and raise, borrow, and secure the payment of money in any lawful manner.

5.8 Accounting

In accordance with Title 1, Chapter 13, Section 1-13-5(I) of the Pueblo of Acoma Laws accounting for the Board shall be performed by the Pueblo of Acoma's general accounting offices unless the Board retains a CFO or retains a certified accounting firm. It shall be a priority of the Board to ensure that a CFO or

certified accounting firm is retained.

- 5.9 **Duties of a Chief Financial Officer**
A Chief Financial Officer shall perform the duties as set forth in Title 1, Chapter 13, Section 1-13-5(J) of the Pueblo of Acoma Laws.
- 5.10 **Disclosure of Major Transactions**
The Board shall make full disclosure to the Tribal Administration and the Tribal Council of any major transaction performed or entered into by the Board in accordance with Title 1, Chapter 13, Section 1-13-6 of the Pueblo of Acoma Laws.

Article 6.0 – Meetings

- 6.1 **Quorum**
A quorum of Board members is required for the conduct of official business, except for election of officers as prescribed in article 4.1. A quorum shall consist of greater than one-half of the seated Board members (not counting seats for which no one has been appointed). No action shall be taken absent a quorum.
- 6.2 **Regular Meetings**
Regular meetings will be held monthly or as needed. All regular and other meetings of the Board shall be held in Executive Session and attendance by others is at the invitation of the Board.
- 6.3 **Special Meetings and Emergency Actions**
6.3.1. Special meetings will be held as needed.
6.3.2. In emergency situations where immediate action is necessary and convening the full Board is not feasible, at least two officers of the Board, after consultation with available Ex Officios, are authorized to make interim decisions on behalf of the Board. Such decisions must be reported to the Board at the earliest opportunity and are subject to ratification by the Board.
- 6.4 **Notice**
Notice of regular meetings shall be in writing, electronically or by telephone to each Board member at least one (1) week prior to the meeting date.
- 6.5 **Decision-making**
Matters before the Board shall be fully discussed and decided by a simple majority of those present. Each member shall be entitled to one (1) vote, except that when there is an even number of Board members voting the Chair shall not vote. All decisions arrived at by vote shall be duly recorded in the formal meeting minutes or as a formal resolution. Decisions by vote may be in person, virtual or via email.
- 6.6 **Meeting and Reports to Governor and Tribal Council**
The Board shall meet at least quarterly with the Tribal Administration to report on progress made in implementing the Strategic and Operational Plans, and at least every six (6) months with the Tribal Council.

Article 7.0 – Amendment of Bylaws

7.1 Amendment Process

These Bylaws can be amended at any meeting of the Board by an affirmative vote of a majority of the members present, provided that the amendment has been submitted in writing to each member at least (14) days in advance of the meeting. All amendments must be ratified by the Tribal Council.

*Amendment Adopted by Acoma Health Board on **February 28, 2024**
Ratified by Acoma Tribal Council on **Friday, March 21, 2024***

- N. Conflict of Interest. Employees of the Pueblo of Acoma Health and Human Services Division, including their spouses or significant others, shall be excluded from nomination or appointment to the Board to avoid conflicts of interest. Indian Health Service, Bureau of Indian Affairs and Bureau of Indian Education employees shall obtain clearance from their agency prior to serving. All Board members shall put the interest of the Board before any personal interest in carrying out their duties and shall avoid any real and apparent conflicts of interest.. A conflict of interest arises when circumstances create a possibility that a Board Member’s undivided loyalty to the Board might be compromised, such as but not limited to circumstances when a Board member or their immediate family has a financial interest in the outcome of the Board action, or when the action concerns the conduct of the member or member’s immediate family. When a Board member becomes aware of an actual or potential conflict of interest, that member(s) shall have a duty to disclose the conflict of interest in writing to the Board prior to deliberations on the matter in question and the Board shall make the determination as to whether the member has a conflict of interest in the matter. If the Board determines there is a conflict of interest the interested members shall abstain from voting on that matter. The minutes of the Board meeting shall reflect disclosure of any conflict of interest and the recusal of the interested member.

Annotation 1: Tribal Council Resolution No. 2023-21 amended this section to add a new paragraph N (Conflict of Interest).

Annotation 2: Tribal Council Resolution No. 2024-005 approving the Acoma Health Board Bylaws dated February 28, 2024, effectively restated and expanded the scope of conflicts of interest, the duty of Loyalty and the duty of disclosure and provided that to the extent this Title was inconsistent with the provisions of the Bylaws and Resolution, the Bylaws and Resolution shall control.

1-13-6

Disclosure of Major Transactions. The Acoma Health Board shall

make full disclosure to Tribal Administration and the Tribal Council of any major transaction performed or entered into by the Board. A major transaction shall mean any transaction for an amount greater than Five Hundred Thousand Dollars (\$500,000).

Annotations: Tribal Council Resolution No. 2023-21 amended this section to add Section 1-13-6 (Disclosure of Major Transactions) and remove the prior Section 1-13-6 (Amendment) which provided “To the extent it is consistent with general laws concerning amendment of the written law of the Pueblo, written notice of any proposed amendment of this chapter must be given to all members of the Acoma Health Board, Tribal Administration and the Tribal Council. Amendments are effective upon approval by Tribal Council by Resolution, or a different effective date if stated in the resolution approving the amendment.” (Origins: Enacted by Tribal Council Resolution No. TC-AUG-27-03-VE. Annotations: Cross reference to Section 1-1-6 Pueblo of Acoma Laws 2003. This section is consistent with Section 1-1-6).

1-13-7

Confidentiality. Acoma Health Board members shall hold in confidence all confidential and proprietary information of the Pueblo and the Board and shall not directly or indirectly report, publish, disclose, reveal, or transfer any confidential or proprietary information except as specifically authorized in writing by the Tribal Council. Board members shall be bound by Federal laws regarding protection of personal health information, including under Health Insurance Portability and Accountability Act (HIPAA). Termination of a Board Member’s tenure on the Board shall not end his or her obligations with respect to such information. Each Board member shall execute a Non-Disclosure Agreement covering all confidential or proprietary information provided to the Board.

Annotation 1: Tribal Council Resolution No. 2023-21 amended this section to add Section 1-13-7 (Confidentiality).

Annotation 2: Tribal Council Resolution No. 2024-005 approving the Acoma Health Board Bylaws dated February 28, 2024, effectively amended this Section by adding “Board members shall be bound by Federal laws regarding protection of personal health information, including under Health Insurance Portability and Accountability Act (HIPAA) and provided that to the extent this Title was inconsistent with the provisions of the Bylaws and Resolution, the Bylaws and Resolution shall control. .

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