



**UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS**

**APPROVAL OF
PUEBLO OF JEMEZ
TITLE XVII RESIDENTIAL LEASING CODE**

The attached Title XVII Pueblo of Jemez Residential Leasing Code, submitted by the Pueblo of Jemez (listed in the Federal Register, Vol. 86, No. 18 FR 7556 (January 29, 2021) as the Pueblo of Jemez, New Mexico), and prepared in accordance with the Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012, consisting of 23 pages and adopted by the Pueblo of Jemez Tribal Council on March 12, 2021, is hereby approved.

Dated: AUG 25 2021

Assistant Secretary – Indian Affairs
United States Department of the Interior

Pursuant to the authority delegated by 209 DM 8

TITLE XVII
PUEBLO OF JEMEZ RESIDENTIAL LEASING CODE

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TITLE XVI

PUEBLO OF JEMEZ RESIDENTIAL LEASING CODE

CHAPTER 1 GENERAL PROVISIONS

Section 17-1-1 Short Title

This Code shall be known as the "Pueblo of Jemez Residential Leasing Code," and the short title "Residential Leasing Code."

Section 17-1-2 Authority

1. This Residential Leasing Code is enacted pursuant to the inherent sovereign authority of the Pueblo of Jemez to control and regulate land and residences on Jemez Pueblo Lands.
2. The Helping Expedite and Advance Responsible Tribal Homeownership Act (Hearth Act of 2012), P.L. 112-151, amending 25 U.S.C. § 415, authorizes the Pueblo of Jemez (hereinafter Pueblo) to develop residential leasing regulations and grant residential leases, provided the Pueblo's regulations meet the requirements of the Secretary of the Interior (hereinafter Secretary). The provisions herein have been enacted to meet those requirements and authorize the Pueblo to regulate residential leasing on Jemez Pueblo Lands.

Section 17-1-3 Purpose

The purposes of this Code are:

1. To authorize, permit and comprehensively regulate residential leasing on Jemez Pueblo Lands, and prevent unlawful conduct in the course of such activities.
2. To promote homeownership opportunities for the Pueblo government and its members.
3. To promote and support Tribal self-sufficiency and a strong Tribal government.
4. To streamline the residential leasing and review process that conforms to Pueblo law and promotes Pueblo development objectives.
5. To protect the health and welfare of Pueblo residents, the political integrity of the Pueblo, and the economic security of the Pueblo through effective control and regulation of leasing on Jemez Pueblo Lands.

Section 17-1-4 Scope

1. This Code applies to all persons engaging in, participating in, or undertaking activities that require a residential Lease.

2. This Code covers all land held in trust by the United States for the Pueblo.
3. This Code shall apply to leases as authorized by 25 U.S.C. 415(h) and any implementing regulations including the development of low-income housing by POJHA and Jemez Pueblo land leased for residential purposes to any person under federal law prior to an enactment of this Code. This Chapter does not affect the validity, legality, or term of any Lease or related document approved by the Secretary prior to the effective date of this Code.
4. This Code allows for mortgages of a leasehold interest of Jemez Pueblo Lands.
5. This Code does not apply to a lease of individually owned Indian land or any Lease prior to the effective date of this Residential Leasing Code.

Section 17-1-5 Applicable Law

1. Except as excluded under subsection 17-1-5(2) below, or as contrary to applicable federal statutes or regulations, this Code shall apply:
 - a. To all future Leases providing for the occupation or use of any Housing Unit on Jemez Pueblo land for residential use; and,
 - b. To all future Leases providing for the occupation or use of any Jemez Pueblo Land for residential use.
2. This Code shall not apply:
 - a. To any commercial or business lease; or,
 - b. To any agricultural lease.
3. Every Lease covered under this Code shall be subject to and governed by Pueblo Law and applicable federal law exclusively.
4. All parties to a Lease approved pursuant to the process set forth in Chapter 3 of this Code shall be deemed to have consented to the jurisdiction of the Pueblo.

Section 17-1-6 Effective Date

The provisions of this Code shall be effective upon approval by the Pueblo of Jemez Tribal Council, and the Secretary.

CHAPTER 2 DEFINITIONS

Section 17-2-1 Definitions

For purposes of this Code:

- a. "Access Permit" means a document authorizing a prospective Lessee and its contractor(s) access to the Jemez Pueblo Lands for a specified period of time.
- b. "Applicant" means a person requesting a Lease of a parcel of Jemez Pueblo Land and who has filed an application with the Tribal Realty Department.
- c. "Application" means a written request to the Realty Office to Lease a parcel of Jemez Pueblo Land.
- d. "Assignment" means an agreement between a Lessee and assignee, whereby the assignee acquires all or some of the Lessee's rights and assumes all or some of the Lessee's obligations under the Lease.
- e. "BIA" means the Bureau of Indian Affairs, United States Department of the Interior.
- f. "Code" means this Residential Leasing Code.
- g. "Completed Application" means application forms required by the Realty Office to be completed by the lease applicant and submitted to the Realty Office.
- h. "Cultural Resources" means sites, objects, landscapes, structures, or natural features of significance to a group of people traditionally associated with it.
- i. "LTRO" means the Land Titles and Records Office of the Bureau of Indian Affairs.
- j. "Environment" means Jemez Pueblo Land, air quality, water, minerals, flora, fauna, ambient noise, areas of critical habitat, and objects or areas of historic, religious, or cultural significance to the Pueblo.
- k. "Environmental Review" means the process by which the Natural Resources Department assesses and determines effects, if any, of a proposed Lease on the Environment and which results in one of three findings: Categorical Exclusion, an environmental assessment with no Significant Effects, or an Environmental Review Statement.
- l. "Environmental Review Statement" means the document prepared by the Natural Resources Department to describe the potential significant effects on the environment as a result of a proposed Lease.
- m. "Finance Department" means the Pueblo's Finance Department.
- n. "HUD" means the US Department of Housing and Urban Development or any successor.
- o. "Indemnify" means to restore the victim of a loss, in whole or in part, by payment, repair, or replacement.

- p. "Individually Owned Land" means any tract or interest therein, in which the surface estate is owned by a person other than the Pueblo held in trust by the United States or subject to restriction by the United States against alienation.
- q. "Jemez Pueblo Lands" means any land, except individually owned land, in which the surface estate is owned by the Pueblo and is either held in trust or restricted status. The term also includes land held by any Pueblo federally chartered corporation under section 17 of the Act of June 18, 1934 (48 Stat. 988; 25 U.S.C. 477).
- r. "Lease" means a written agreement between the Pueblo and a Lessee, whereby the Lessee is granted a right to possess and use only the surface of a parcel of Jemez Pueblo Land for a residential purpose and duration, and includes any amendments, exhibits, and attachments.
- s. "Lease Assignment" means an agreement between a Lessee and an assignee, whereby the assignee acquires all or some of the Lessee's rights, and assumes all or some of the Lessee's obligations, under a Lease.
- t. "Leasehold Mortgage" means a mortgage, deed of trust, or other instrument that pledges a Lessee's or sublessee's leasehold interest as security for a debt or other obligation owed by the Lessee or sublessee's to a lender or other Mortgagee or governmental guaranteeing agency.
- u. "Lessee" means a person who has acquired a legal right to possess and use Jemez Pueblo Land by executing a Lease pursuant to this Code.
- v. "Lessor" means the Pueblo as the grantor of rights to possess and use Jemez Pueblo Land under a Lease.
- w. "LURA" means a Land Use Restriction Agreement whereby a Lessee agrees to restrict or condition the residential occupancy or use of the leased premises for a specified term as consideration for the financing or construction of a single-family residence.
- x. "Mixed-Use Development" means a real estate development with planned integration of some combination of residential use with retail, office, commercial recreation or other functions.
- y. "Mortgage" means a lien on a parcel of Jemez Pueblo Land given to secure advances on a loan to purchase, construct, refinance or renovate a housing unit or improvement, and may refer both to a security instrument creating a lien, whether called a Mortgage, deed of trust, security deed, or other term, as well as the credit instrument, or note, secured thereby.
- z. "Mortgagee" means any person, entity or governmental agency which lends under a Leasehold Mortgage, and includes any designated assignee, or any heir, successor, executor, administrator, or assign thereof
- aa. "Mortgagor" means the Pueblo or any person or entity who has executed a Leasehold Mortgage, including any heir, successor, executor, administrator, or assignee thereof.

- bb. "Natural Resources Department" means the department within the Pueblo of Jemez responsible for preserving, restoring and protecting the cultural and natural resources on Jemez Pueblo Lands.
- cc. "Permanent Improvement" means a building, other structure, and associated infrastructure attached to the leased premises.
- dd. "Person" means a natural person, any association, partnership, corporation, firm or other form of residential association.
- ee. "POJHA" means the Pueblo of Jemez Housing Authority, a tribally designated housing entity created by the Pueblo.
- ff. "Public" means any person who may be directly affected by any Significant Effect on the Environment by a proposed Lease.
- gg. "Pueblo" means the Pueblo of Jemez, a federally recognized Indian tribe.
- hh. "Pueblo Law" means the body of law of the Pueblo, consisting of its codes, ordinances, regulations, court decisions, and customs.
- ii. "Realty Office" means the Pueblo's Realty Office.
- jj. "Secretary" means the United States Secretary of the Interior or his designee, including the Bureau of Indian Affairs.
- kk. "Significant Effects on the Environment" means a material and demonstrable negative change or impact on the Environment.
- ll. "Single-Family Residence" means a habitable building with one to four dwelling units on a tract of land under a single Lease.
- mm. "Single-Family Residential Development" means two or more single-family residences owned, managed or developed by a single entity.
- nn. "State Agency" means any agency of the state of New Mexico responsible for reviewing environmental impacts of projects within the State.
- oo. "Sublease" means a written agreement by which the Lessee grants to a Person a right to possession or use of some, or all of the leased premises, but having no greater rights than that held by the Lessee, under the Lease, and includes any amendments, exhibits, and attachments.
- pp. "Trespass" means the unauthorized possession, occupancy, holding over upon, entry upon, or use of Jemez Pueblo Lands.
- qq. "Tribal Council" means the governing body of the Pueblo of Jemez.

- rr. "Tribal Court" means the Pueblo of Jemez Tribal Court established by Pueblo Law.
- ss. "Trust or Restricted Land" means any tract of land, or interest therein, held in Trust or Restricted Status.
- tt. "Trust or Restricted Status" means that (1) the United States holds title to the tract or interest in trust for the benefit of one or more tribes or individual Indians; or (2) the Pueblo or individual Indians hold title to the tract or interest, but cannot alienate or encumber it only with the approval of the United States because of limitations in the conveyance instrument under federal law or limitation imposed by federal law.
- uu. "Violation" means a failure to take an action, including payment of compensation when required by the Lease, or to otherwise not comply with a term of the Lease.

CHAPTER 3 LEASE APPLICATION PROCESS

Section 17-3-1 Application

1. Every Applicant for a Lease for residential purposes shall submit a completed application on forms provided by the Realty Office, and shall contain such information and documents specified. The application must, at a minimum, identify:
 - a. The Applicant;
 - b. The location of the Jemez Pueblo Land proposed for the Lease;
 - c. The proposed duration for the Lease;
 - d. The proposed access to the Jemez Pueblo Land proposed for the Lease;
 - e. The proposed utility connections to the Jemez Pueblo Land proposed for the Lease;
 - f. The anticipated use of the Jemez Pueblo Land proposed for the Lease; and,
 - g. Any planned use of a current Permanent Improvement on the property or any planned new Permanent Improvement on the property proposed for the Lease.
2. All information included in the application shall be true and accurate and complete as of the date of submission to the Realty Office. If there is any change in the information contained in the application, the Applicant shall promptly file a written amendment to the application.
3. Upon receipt of a completed application and required administrative fee that may be set annually for Lease review, the Realty Office, in coordination with the Natural Resources Department, shall conduct the necessary assessments to prepare an Environmental Review

Statement.

Section 17-3-2 Access Permit

Upon request of the Applicant, the Pueblo Governor or his designee may issue an Access Permit to allow the Applicant, or their contractors, access to the Jemez Pueblo Land proposed for the Lease to prepare the documentation required by Section 17-3-3.

Section 17-3-3 Documentation

The Realty Office may request that the Applicant provide the following documentation related to the Jemez Pueblo Land proposed for Lease:

1. A site plan describing the type and location of any existing or proposed Permanent Improvements including utility installation and connections;
2. A fair market appraisal of the value of the land and any existing Permanent Improvements;
3. A land survey;
4. A development plan and schedule of construction and for any proposed Permanent Improvements; and
5. An Environmental Review, including a cultural survey that may be prepared under Chapter 5.

Section 17-3-4 Environmental Review

Upon receipt of a completed application, and any required documentation, the Natural Resources Department shall undertake the environmental and cultural review process in accordance with Chapter 5 of this Code.

CHAPTER 4 LEASE REQUIREMENTS

Section 17-4-1 Mandatory Lease Provisions

Upon completing, or during, the Environmental Review process, the Pueblo and the Applicant may negotiate the terms and conditions of a proposed Lease. All Leases shall be in writing, and must contain the following:

1. A legal description; descriptions must be of sufficient detail to meet recording requirements for BIA's Land Title and Records Office (LTRO);
 - a. The purpose of the Lease;

- b. The authorized uses of Jemez Pueblo Land proposed for the Lease;
 - c. The parties to the Lease;
 - d. The term of the Lease and any option to renew, including time and manner for exercise;
 - e. The effective date of the Lease;
 - f. The rent and payment requirements, including payment due dates, payee, place of payment; and if applicable, any adjustment, including how and when the adjustment will be effective, and how disputes regarding the adjustment or rental payment will be resolved and form of payment;
 - g. Any late payment charges, interest, or special fees;
 - h. State the due diligence, performance bond and insurance requirements that apply, if any;
 - i. State the process for amendment, which shall be only in writing signed by both parties, and with the consent of any Mortgagee;
 - j. State the governing law, which may include Pueblo Law and applicable federal statutes and regulations.
2. All parties to this Lease, including non-member persons, shall be deemed to have consented to the jurisdiction of the Pueblo of Jemez, a federally recognized tribe.
3. The obligations of the Lessee to Lessor are also enforceable by the United States, so long as the land remains in Trust or Restricted Status.
4. There must not be any unlawful conduct, creation of a nuisance, illegal activity, or negligent use or waste of the leased premises.
5. The Lessee must comply with all applicable laws, ordinances, rules, regulations, and other legal requirement.
6. If historic properties, archeological resources, human remains, or other cultural resources not previously reported are encountered during the course of any activity associated with this Lease, all activity in the immediate vicinity of the properties, resources, remains, or items will cease and the Lessee will contact the Pueblo's Realty Office and the Natural Resources Department to determine how to proceed and how to mitigate as necessary.
7. The Pueblo has the right, at any reasonable time during the term of the Lease and upon reasonable notice to enter the leased premises for inspection and to ensure compliance.

8. The Pueblo may, at its discretion, treat as a Lease Violation any failure by the Lessee to cooperate with a Pueblo request to make appropriate records, reports, or information available for Pueblo inspection and duplication.

9. The Lessee holds the United States and the Pueblo harmless from any loss, liability, or damages arising out of the Lessee's use or occupation of the leased premises.

10. The Lessee indemnifies the United States and Pueblo against all liabilities or costs relating to use, handling, treatment, removal, storage, transportation, or disposal of hazardous materials, or release or discharge of any hazardous material from the leased premises that occurs during the Lease term, regardless of fault, except that the Lessee is not required to Indemnify the Pueblo for liability or cost arising from the negligence or willful misconduct of the Pueblo or the United States.

Section 17-4-2 Negotiable Lease Provisions. The Lease may include other terms and conditions negotiated by parties including but not limited to the following:

1. Any additional consideration, notice to lenders, whether default restricts exercise of option;
2. Any additional due diligence requirements, if applicable;
3. Any additional required bond or other form of financial security, if applicable;
4. Any additional insurance requirements, if applicable;
5. Any other terms and conditions negotiated by the parties.

Section 17-4-3 Payment and Documentation

1. A Lease of Jemez Pueblo land may provide for the payment of any amount of rent or other compensation negotiated by the Realty Office on behalf of the Pueblo. The Realty Office shall determine appropriate rent for a Lease through a market analysis, appraisal, other valuation method, by negotiation or in accordance with paragraph 2 of this Section.

2. The Pueblo Council may accept nominal rent less than market value rent, and/or in-kind consideration for a Lease of Jemez Pueblo land, under the following circumstances:

a. Lessee is any Pueblo entity, POJHA, or other low-income private or public housing developer that intends to develop, build, construct, remodel, renovate, expand, or improve a single-family residence, a single-family residential development, and or related Permanent Improvements; or

b. Lessee is a Pueblo member and intends to obtain financing under a leasehold Mortgage or the placement, erection, construction, remodeling, renovation, expansion, or improvement of a single-family residence or related Permanent Improvement; or

c. Lessee is a Pueblo member and intends to accept from POJHA or other low-income entity the placement, erection, construction, remodeling, renovation, expansion, or improvement of a single-family residence or related Permanent Improvement for which a LURA is required as a condition of acceptance.

3. All payments, adjustments, late payment charges, fines and/or special fees, any additional consideration, dispute settlements, and all other forms of payment shall be made out to the "Pueblo of Jemez," and paid directly to the Jemez Finance Department.

Section 17-4-4 Recording of Lease

A record of the Lease, including any Lease Assignment, Sublease, Leasehold Mortgage and release, plats, and amendments and renewal thereof, shall be recorded with the LTRO at the Bureau of Indian Affairs (BIA) and filed at Tribal Records and Realty Office at the Pueblo.

Section 17-4-5 Approval of Lease

1. Leases governed by this Code are subject to approval by the Tribal Council, upon a finding that such Lease is in the best interest of the Pueblo.

2. Once a Lease application has been submitted which includes submittal of a completed application, any requested additional information or documentation, and Lease negotiation terms, to the Realty Office, the Tribal Council shall provide provisional approval of a Lease.

3. If the Tribal Council grants provisional approval, then the Lease Applicant may move forward with required environmental and utility reviews.

4. Upon notice that a Lease has received provisional approval, the Natural Resources Department shall conduct the required Environmental Review within thirty (30) calendar days.

5. At the conclusion of the leasing process, which includes submittal of complete application, Environmental Review Statement, Lease negotiation, and any requested additional documentation, the Realty Office shall report to the Pueblo Governor within fourteen (14) business days that a Lease under this Code is available for consideration by the Tribal Council. The Realty Office may recommend approval of the Lease on terms negotiated between the Lessee and the Realty Office.

6. Any Lease approved by Tribal Council resolution under this Code shall be signed by the Pueblo Governor, or his authorized designee, on behalf of the Pueblo.

7. Any amendments to a Lease shall be approved by the process described in Section 17-4-1 (i) of this Residential Leasing Code.

Section 17-4-6 Lease Duration

The Tribal Council may approve a Lease for residential purposes for any duration that does not exceed seventy-five (75) years, pursuant to 25 U.S.C. 415 (h)(1)(B). A Lease may provide for an initial term of less than seventy-five (75) years with a provision for one or more renewals, so long as the total term, including all renewals, does not exceed seventy-five (75) years.

Section 17-4-7 Land Survey

1. The Lease must describe the leased premises in accordance with Section 17-4-1(1) of this Residential Leasing Code by reference to a land survey prepared by a professional surveyor licensed by the New Mexico State Board of Licensure for Professional Engineers and Professional Surveyors, or an equivalent state or federal surveyor licensure.
2. If the Lease premises is not described by reference to a land survey, then a professional surveyor or the Pueblo's Realty Office may describe the Lease premises using one or more of the following methods, each of which must be of sufficient detail to meet the reporting requirements of the LTRO:
 - a. A legal description; or
 - b. a survey-grade global positioning system description.

Section 17-4-8 Insurance

1. The Realty Office may require the prospective Lessee to secure, maintain, and provide proof to the Realty Office of liability and/or casualty insurance, and to require that the Pueblo and the United States are additional named insured parties, in amounts sufficient to cover any Permanent Improvement, personal injury or death, or any other risk to which the Pueblo and the United States may be exposed.
2. Lessee shall provide the Realty Office within thirty (30) calendar days written notice of cancellation of any insurance required under Section 17-4-8(1). Failure to provide notice of cancellation shall constitute a breach of Lease.
3. The Realty Office may require the Lessee to provide a performance bond or alternative form of security in an amount sufficient to secure all contractual obligations.
4. The performance bond or alternative form of security must require the surety to provide at least sixty (60) days' notice before canceling a performance bond or other security. Failure to provide a substitute performance bond or security is a violation of the Lease.
5. If a performance bond is required, the Lease must state that the Lessee must obtain the consent of the surety for any legal instrument that directly affects their obligations and liabilities.

Section 17-4-9 Effective Date of Lease

A Lease and any Lease related document, including any amendment, Lease Assignment, or Sublease, must state an effective date to be valid.

Section 17-4-10 Permanent Improvements

1. The Lessee shall be responsible for notifying the Realty Office of Lessee's intent to place, construct, maintain, and use a Permanent Improvement located on Jemez Pueblo Land under a Lease.
2. All plans for Permanent Improvements located on Jemez Pueblo Land must include a specified date of construction commencement and completion and generally describe the type and location of the Permanent Improvements to be constructed.
3. Lessee shall own any Permanent Improvement to the leased premises for the duration of the Lease, subject to any interest created by a Leasehold Mortgage, LURA, or Lease assignment.
4. The Lease must specify who will own any Permanent Improvements the Lessee constructs during the Lease term. The Lease must indicate whether each specific Permanent Improvement the Lessee constructs will:
 - a. Remain on the leased premises upon expiration, termination, or cancellation of the Lease, in a condition satisfactory to the Pueblo and become the property of the Pueblo;
 - b. Be removed within a time period specified in the Lease, at the Lessee's expense, with the leased premises to be restored as closely as possible to their condition before construction of the Permanent Improvements; or
 - c. Be disposed of by other specified means.
5. Unless otherwise provided in the Lease, the following govern the disposition of Permanent Improvements upon expiration, termination, or breach of a Lease:
 - a. No Permanent Improvement may be removed without the Realty Office's approval if a Lessee owes any payments under the Lease, is in breach of any Lease obligation, has created a Lease Assignment, or is in default;
 - b. Any Lessee who exercises the right of removal must pay costs related to the relocation of Permanent Improvements and shall restore Jemez Pueblo Land to its original condition;
 - c. Any Permanent Improvement or other property abandoned on Jemez Pueblo Land at the expiration or termination of a Lease, or after the expiration of the removal period under this Section, shall automatically become the property of the Pueblo, unless the Pueblo notifies the Lessee in writing of its election to declare such abandoned property a nuisance within ninety

(90) days of the expiration or termination of the Lease, or the removal period; and

d. The Lessee's obligation to remove Permanent Improvements from Jemez Pueblo Land and to restore Jemez Pueblo Land survives the expiration or termination of the Lease.

CHAPTER 5 ENVIRONMENTAL REVIEW

Section 17-5-1 Purpose

The purpose of this Chapter is to establish an Environmental Review process that satisfies the requirements of this Code, tribal law and applicable federal law.

Section 17-5-2 Requirements

Except as provided in Sections 17-5-2(1) or (2), the Director of the Natural Resources Department, or the Director's designee, shall prepare an Environmental Review Statement in accordance with this Chapter that identifies and evaluates any Significant Effects of the proposed Lease on the Environment.

1. The National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 et seq., and the National Historic Preservation Act (NHPA), 54 U.S.C. 300101 et seq., do not apply to any Lease or approval of any Lease under this Code.

2. Notwithstanding paragraph 1, POJHA shall be responsible for ensuring compliance with this part, NEPA, and HUD implementing regulations so long as Section 105 of the Native American Housing Assistance and Self-Determination Act (NAHASDA), 42 U.S.C. § 4101 et seq., and implementing regulations, or any applicable law require compliance with NEPA as a condition of funding.

3. The Tribal Council shall not approve a Lease under this Section unless:

a. The Natural Resources Department has reviewed the Lease and such other information as may be necessary to identify and evaluate any Significant Effect on the Environment of the intended use of the premises, and has:

b. Determined that the uses authorized by the Lease are included within a Categorical Exclusion and provided that determination in writing to the Tribal Council; or,

c. Issued a Finding of No Significant Impact and provided that determination in writing to the Tribal Council.

Section 17-5-3 Categorical Exclusions

1. Excluding potential impacts to cultural resources, the Tribal Council finds that the following actions do not individually or cumulatively have a Significant Effect on the Environment, and therefore are categorically excluded from the procedures set forth in this

Chapter:

a. Approval of a Lease for one-half (1/2) acre or less of contiguous land for construction of a single structure of one to four building units, and any associated improvements, access roads, and utilities, provided that such site and associated improvements do not adversely affect any Pueblo cultural resource or historic property; or

b. Approval of a Lease for an existing residential site, including any associated improvements, access roads, and utilities.

Section 17-5-4 Report to Tribal Council

The Natural Resources Department shall issue a written report within thirty (30) calendar days to the Tribal Council documenting its decision not to prepare an Environmental Review Statement based on any of the provisions in Section 17-5-2 (1) or (2).

Section 17-5-5 Environmental Review Statement Contents

The Environmental Review Statement need only consider the potential impact of the proposed Lease, and does not need to consider alternative actions, including a no-action alternative, but shall consider Significant Effects.

Section 17-5-6 Minimum Review Requirements

The level of detail and depth of the analysis conducted by the Natural Resources Department is limited to the minimum needed to determine whether there would be Significant Effects of the proposed Lease on the Environment.

Section 17-5-7 Environmental Review Statement Documentation

An Environmental Review Statement shall be prepared in a format designed to fully inform the Public of any Significant Effects of the proposed Lease on the Environment.

Section 17-5-8 Environmental Review Prepared by another Entity

The Natural Resources Department may utilize and publish the Environmental Review Statement prepared by a State Agency, a federal agency, or a non-Pueblo entity or person to fulfill the Natural Resources Department's requirements for Environmental Review process under this Chapter, provided such Environmental Review Statement conforms to this Chapter.

Section 17-5-9 Public Notice

1. The Realty Office shall notify the Public of the Natural Resources Department's Environmental Review Statement by the following methods:

a. Publishing the notice in a newspaper or newsletter of general circulation in the

Pueblo community;

b. Posting the notice at Pueblo administration buildings and other locations within the Pueblo; and

c. Disseminating the notice in any other manner reasonably determined to reach the Public, including but not limited to posting on the Pueblo's website.

2. The public notice must contain the following information:

a. A summary of the proposed Lease;

b. A summary of the need for the proposed Lease;

c. A summary of the Environmental Review Statement, including the Natural Resources Department's recommendation on the proposed Lease;

d. The location where the Public can, without charge, obtain a copy of the Environmental Review Statement;

e. Instructions on how the Public may submit written comments to the Natural Resources Department regarding the Environmental Review Statement during a comment period not to exceed thirty (30) calendar days from the date the notice is published.

Section 17-5-10 Response to Public Comments

1. The Natural Resources Department shall consider written comments received from the Public and provide a written response to relevant comments within thirty (30) calendar days of the closing of the comment period, and prior to submitting a Lease to the Tribal Council for consideration.

2. The Natural Resources Department's response will identify any recommended course of action to mitigate the Public concerns regarding the proposed Lease.

3. Based on comments received, the Natural Resources Department may revise the Environmental Review Statement or suggest modifications as a condition of approval of the proposed Lease.

4. The Realty Office shall notify the Public of its response to comments and recommendation to the Tribal Council by the means described in Section 17-5-9(1).

Section 17-5-11 Conclusion of Environmental Review Process

The Tribal Council may approve or disapprove the proposed Lease only after the Realty Office, in consultation with the Natural Resources Department:

1. Identifies any potential Significant Effects of a proposed Lease on the Environment;
2. Notifies the Public of the Environmental Review Statement;
3. Reviews Public comments;
4. Provides written responses to any relevant and substantive Public comments;
5. Determines any mitigations, modifications or conditions to Lease approval;
6. Determines in accordance with Section 17-5-3 that no categorical exclusion exists.

Section 17-5-12 Appeal

1. Within thirty (30) days the Public or the Applicant may appeal the Natural Resources Department's determination related to its Environmental Review Statement to the Tribal Court in accordance with Chapter 9 of this Code.
2. A timely appeal of the Natural Resources Department's Environmental Review Statement determination suspends Tribal Council approval action until resolution of the appeal by Tribal Court.

CHAPTER 6 SUBLEASE AND ASSIGNMENTS

Section 17-6-1 Approval Required

1. A Sublease or Lease Assignment shall be void without the Tribal Council's approval.
2. The Tribal Council may approve a provision in a Lease allowing Sublease or Lease Assignment without further approval of Council.
3. The Tribal Council may condition its approval of a Sublease or Lease Assignment upon any terms or conditions deemed to be in Pueblo's best interests.
4. The Tribal Council's approval of a Sublease or Lease Assignment does not relieve the Lessee from any liability that may have arisen prior to a Sublease or Lease Assignment.
5. The Tribal Council's approval of a Sublease or Lease Assignment does not constitute approval of any subsequent Sublease or Lease Assignment.
6. No Sublease or Lease Assignment will extend the term of the Lease, and the Lessee shall notify its sub-lessee or assignee of the terms and conditions of the Lease.
7. The expiration of the Lease will automatically, and without notice, terminate any Sublease or Lease Assignment, unless otherwise agreed to in writing by the Tribal Council.

8. All Subleases and Lease Assignments and amendments thereto shall be recorded and maintained by Tribal Records and the Realty Office with copies provided to the LTRO at BIA.
9. No Sublease shall relieve the Lessee or sub-lessor of any liability under the Lease.
10. In any Assignment, other than to a Mortgagee of the Leasehold, the assignee must agree in writing to assume all of the obligations and conditions of the Lease.
11. All Subleases and Assignments shall require the prior approval of a Mortgagee or Surety, if required by the Mortgagee or Surety agreement.

CHAPTER 7 LEASEHOLD MORTGAGES

Section 17-7-1 Approval of Leasehold Mortgage

1. All Leasehold Mortgages under a Lease must be separately authorized by the Tribal Council, unless the Lease authorizes a Leasehold Mortgage and states the law governing foreclosure.
2. A Leasehold Mortgage vests no right, title, interest, claim or privilege in the Mortgagee against the reversionary interest of the Pueblo in the Pueblo land under Lease, except in accordance with applicable tribal law.
3. After the Secretary of the Interior approves this Code, all Leasehold Mortgages which are authorized under Section 17-7-1 of this Residential Leasing Code shall be effective without federal approval under 25 U.S.C. 415, unless the Secretary of Interior rescinds approval of this Code and reassumes responsibility for such approval.
4. Remedial proceedings to foreclose on a Mortgage, all landlord and tenant matters, and eviction proceedings are governed by applicable tribal law, and such provisions do not authorize Tribal Court jurisdiction to review Tribal Council approval of leasehold mortgages as provided in this Code.

Section 17-7-2 Requirements

1. A Lessee may grant a Leasehold Mortgage under Lease in accordance with Chapter 7 of this Residential Leasing Code.
2. Lessee or sublessee shall not assign rights or duties of a Lease, and such attempt shall be void, without the prior written consent of the:
 - a. Tribal Council; and
 - b. The Mortgagee or guarantor where the Lease and/or a Permanent Improvements on the premises are subject to a Leasehold Mortgage.

3. When required in this Code, a Lessee or sublessee shall receive consent in writing to assign as collateral or Mortgage the Lessee's interest in the Lease, sublease, or any Permanent Improvement on the leased premises.

Section 17-7-3 Recording

All Leasehold Mortgages and assignments, amendments and sales relating thereto shall be recorded at the LTRO; provided that, to the extent required by a Mortgagee, a Leasehold Mortgage shall also be recorded at Tribal Records and Realty Office at the Pueblo.

Section 17-7-4 Notice of Breach of Leasehold Mortgage

1. The Mortgagee shall provide the Realty Office written notice of a breach or default of the Leasehold Mortgage, (Lease or Sublease) at the following address: 4771 Highway 4, P.O. Box 100, Jemez Pueblo, New Mexico, 87024.

2. The Lessee, sublessee, assignee or Mortgagee may cure the Lessee's or sublessee's breach or default within the time period provided under the Lease or Leasehold Mortgage.

3. The Lease, sublease or Leasehold Mortgage may provide that the Pueblo, assignee, or Mortgagee may succeed to the rights and duties of the Lessee or sublessee in accordance with applicable tribal law or under the conditions provided in the Lease or sublease.

CHAPTER 8 LEASE ADMINISTRATION

Section 17-8-1 Administration under this Code and Federal Law

The Realty Office shall act as agent of the Pueblo as Lessor to administer any Lease approved under this Code.

Section 17-8-2 Management Practices

The Realty Office shall employ sound real estate management practices, including collections, monitoring, enforcement, relief, and remedies that are consistent with and in accordance with this Code.

Section 17-8-3 Inspection of Leased Premises

The Realty Office, POJHA, Mortgagee or guaranteeing governmental agency has the right at reasonable times during the term of a Lease and upon reasonable notice to Lessee or sublessee to enter leased premises within the Pueblo to inspect the land and any Permanent Improvements.

Section 17-8-4 Accounting

The Realty Office, in coordination with the Pueblo's Finance Department, may implement and maintain an accounting system to ensure proper accounting of payments of leases in accordance

with generally accepted accounting principles.

Section 17-8-5 Administrative Fees

The Pueblo Realty Office may charge a reasonable administrative fee to cover the expenses of processing a Lease, Sublease, Assignment, Access Permit, amendment, or other transaction under this Chapter.

Section 17-8-6 Enforcement

1. The Realty Office as agent of the Pueblo shall enforce the covenants, terms and conditions of any Lease approved in accordance with this Code.
2. Nothing in this Code prohibits the Pueblo from requesting, or limits the authority of, the Secretary to enforce the terms and conditions of, or cancel, any Lease.

Section 17-8-7 Complaints, Nuisance; Harmful or Threatening Activity

1. The Pueblo or its authorized designee may take any actions to abate a nuisance created by Lease occupancy or activities of a Lessee or its contractors, including unauthorized or abandoned Permanent Improvements, and other abandoned property.
2. If a Lessee, its contractors, employees or other party or person causes or threatens to cause harm to the leased premises, public health, or public safety, or engages in criminal activity on the leased premises, the Pueblo or its authorized designee may take emergency action in accordance with Pueblo Law, including cancelling the Lease, commencing eviction proceedings in Tribal Court, seeking forcible entry and detainer, or taking any other action deemed appropriate to protect the public interest, the leased premises, or the Environment.
3. Expenses, costs, and fees incurred by the Pueblo to remove unauthorized Permanent Improvements or equipment abandoned or otherwise, or to mitigate harm, threat of harm, damage, or waste to Jemez Pueblo Land or Pueblo members, arising from use or occupancy under a Lease, shall remain the sole liability of the Lessee and are deemed additional payments due by Lessee at the time incurred.

Section 17-8-8 Breach of Lease, Cancellation and Remedies

1. Unless otherwise stated in a Lease, the Lessee shall be in default under a Lease if a breach of the Lease is not cured within thirty (30) days after the Realty Office gives notice of the breach to the Lessee.
2. A breach of the Lease, includes a failure to make any payments or other monetary obligation due under the Lease, violation of any term, condition, or covenant of the Lease, or failure to perform or observe any other obligation under the Lease by any party.
3. On the breach of a Lease term, condition or covenant, the Pueblo, as well as the

Secretary, Mortgagee or government guaranteeing agency, shall have the relevant remedies available, at law or in equity, in Tribal Court and as provided in the Lease, including negotiated remedies, cancellation of the Lease, a proceeding to recover any damages from Lessee, sublessee or Mortgagee.

4. If the Lessee does not cure a violation of a Lease within the required cure period, the Pueblo Realty Office may, in addition to any other remedies, terminate the Lease upon notice to the Lessee, surety or Mortgagee.

5. Upon a breach of the Lease as defined in Section 17-8-8(2) of this Residential Leasing Code, the Realty Office may enforce the provisions of, or cancel a Lease document.

6. A Lease termination notice must:

- a. Explain the grounds for termination;
- b. Notify the Lessee of the amount of any unpaid compensation or late payment charges due under the Lease, if applicable;
- c. Notify the Lessee of the Lessee's right to appeal under Pueblo law, including the possibility that Tribal Court may require the Lessee to post an appeal bond;
- d. Order the Lessee to vacate the property within thirty (30) calendar days of the date of receipt of the termination letter, if an appeal is not filed by that time; and
- e. Order the Lessee to take any other action the Realty Office deems necessary to protect the Pueblo, if applicable.

7. Pending resolution of any dispute, the Lessee shall continue to make all payments and comply with the terms of the Lease, including any requirements for environmental or hazardous waste remediation and reclamation of the leased premises.

Section 17-8-9 Trespass

A Lessee or successor in interest to a Lease remaining in possession of the leased premises after expiration or termination of any Lease constitutes trespass on Jemez Pueblo Land and is subject to Civil Trespass pursuant to Title XIV of the Pueblo Code.

CHAPTER 9 APPEALS AND HEARINGS

Section 17-9-1 Court Review

1. The Tribal Court has jurisdiction over any action to enforce the covenants, terms and conditions of a Lease approved by the Tribal Council.
2. The Tribal Court has jurisdiction over an action that seeks to compel the Natural

Resources Department or Realty Office action or to challenge the Natural Resources Department or Realty Office's determination under any Section of this Code.

3. The Tribal Court does not have jurisdiction over the Tribal Council to compel approval or disapproval of any Lease.

Section 17-9-2 Appeals

1. The Lessee or the Public may appeal the Realty Office's inaction or any final determination of the Realty Office, or the Natural Resources Department's determination related to its Environmental Review Statement to Tribal Court by filing a written notice of appeal in Tribal Court within fifteen (15) calendar days of the:

- a. Realty Office or Natural Resources Department's written determination; or
- b. Date upon which Realty Office or Natural Resources Department action was required to be complete.

2. The notice to initiate an appeal must state the following:

- a. the Lessee's or Public's interest in the Lease;
- b. the facts necessary to understand circumstances giving rise to the appeal;
- c. the question to be resolved; and,
- d. the relief sought.

3. The Lessee or the Public shall provide notice to the Realty Office and the Governor of the Pueblo promptly after the filing of the notice of appeal in the Tribal Court, and the Realty Office's time period to respond under Tribal Court procedures does not begin until written notice is provided.

4. Tribal Court shall uphold the Realty Office's final determination or action unless it finds that the Realty Office's action:

- a. was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with applicable law;
- b. exceeded the Realty Office's jurisdiction, authority, or limitations; or
- c. is unsupported by substantial evidence.

5. Upon the Realty Office's motion, Tribal Court may require the Lessee or the Public to file a bond or provide other security in any form and amount necessary to protect the Realty Office or Pueblo from financial losses during the course of an appeal.

6. Any action under this Section shall be conducted in accordance with the Rules of Civil Procedure for the Tribal Court.

7. The decision of the Tribal Court is a final decision and no further appeal is available.

CHAPTER 10 MISCELLANEOUS

Section 17-10-1 Amendments

This Code may be amended by a majority vote of the Tribal Council, provided that no major substantive amendment hereto shall be effective unless approved by the Secretary of the Interior in accordance with applicable federal laws or regulations.

Section 17-10-2 Severability

Should the Tribal Court find any provision of this Code, or the application thereof to any person or entity to be invalid, such finding shall not affect, impair, or invalidate the remainder of this Code, which shall continue in full force and effect.

Section 17-10-3 Compliance with Laws

All parties to any Lease entered pursuant to the provisions of this Code, shall comply with all applicable Tribal and federal laws, rules, and regulations in performance of all obligations under the Lease.

Section 17-10-4 No Waiver of Sovereign Immunity

Nothing in this Code shall be interpreted to waive the sovereign immunity of the Pueblo or the Department's officer's immunity from suit before any tribunal for any action arising from or related to a Lease.

Section 17-10-5 Repeal of Inconsistent Laws

All ordinances and resolutions inconsistent with this Code are hereby repealed. To the extent that this document imposes greater restrictions than those contained in any other Tribal ordinance, the provisions of this Code shall govern.