



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

APPROVAL OF

**PUEBLO OF SANTA CLARA, NEW MEXICO
BUSINESS AND RESIDENTIAL LEASING ORDINANCE**

The attached Business and Residential Leasing Ordinance, submitted by the Pueblo of Santa Clara (listed in the Federal Register, Vol. 88, No. 8 FR 2114 (January 12, 2023) as the Pueblo of Santa Clara, New Mexico), and prepared in accordance with the Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012, consisting of 16 pages and adopted by the Pueblo of Santa Clara Tribal Council on March 17, 2023, is hereby approved.

Dated: May 24, 2023



Assistant Secretary – Indian Affairs
United States Department of the Interior

Pursuant to the authority delegated by 209 DM 8

TITLE XX – PROPERTY LAW

Chapter 119: RESIDENTIAL AND BUSINESS LEASING CODE

Subchapter 1 - General Provisions

Sec. 119.1 Definitions

Unless otherwise provided, the following definitions shall apply throughout this Code:

- A. “Amendment” means a modification of a Lease Document.
- B. “Assignee” means a person to whom an Assignment is made
- C. “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.
- D. “BIA” means the Bureau of Indian Affairs.
- E. “Business purpose” means a commercial or profit-making purpose.
- F. “Environment” means land, air quality, water, minerals, flora, fauna, ambient sound levels, areas of critical habitat, and objects or areas of historic, religious, archeological, or cultural significance to the Pueblo.
- G. “Environmental Reviewer” means the Director of the Pueblo’s Office of Environmental Affairs.
- H. “Governor” means the Governor of the Pueblo.
- I. “Improvements” means buildings, other structures, and associated infrastructure attached to Leasehold Premises.
- J. “Lease” means a written agreement or contract between the Lessor and a Lessee whereby the Lessee is granted a right to possess Pueblo Lands for a business, residential, or public purpose. A Lessee’s right to possession will limit the Lessor’s right to possession only to the extent provided in the Lease. The term “Lease” may also include a Sublease or Assignment, as the context requires.
- K. “Lease Document” means a Lease, Amendment, Assignment, Sublease, or Leasehold Mortgage.
- L. “Leasehold Mortgage” means a mortgage, deed of trust, or other instrument that pledges a Lessee’s leasehold interest as security for a debt or other obligation owed by the Lessee to a lender or other mortgagee.
- M. “Leasehold Premises” means the tract of Pueblo Lands that is the subject of a Lease or a proposed Lease.

N. “Leasing Decision” means a decision by the Tribal Council whether to approve a Lease Document that requires Tribal Council approval under this Code, and, with regard to approved Lease Documents, a significant change in the purpose of a Lease or the authorized uses of a Leased Premises.

O. “Lessee” means a person or entity that has a right to possess Pueblo Lands pursuant to a Lease, and may also mean a Sublessee or Assignee as the context requires.

P. “Lessor” means the Pueblo of Santa Clara.

Q. “LTRO” means the Land Titles and Records Office of the BIA having jurisdiction over Pueblo Lands.

R. “Mortgagee” means the holder of a Leasehold Mortgage.

S. “Public” means, for purposes of the Environmental Review Process, any person or entity that can demonstrate that they will be directly and substantially affected by a proposed Lease or a the lease activity.

T. “Public Purpose” means a governmental, religious, educational, recreational, or other purpose primarily for the social or cultural benefit of the Pueblo community rather than for a commercial, profit-making, or residential purpose.

U. “Pueblo” means the Pueblo of Santa Clara.

V. “Pueblo Lands” means all lands within the Pueblo of Santa Clara Grant that are solely in Pueblo ownership and that are subject to federal restrictions against alienation, all lands held in trust for the benefit of the Pueblo by the United States, and other lands owned solely by the Pueblo that are subject to federal law restrictions against alienation.

W. “Pueblo Member” means an enrolled member of the Pueblo of Santa Clara.

X. “Realty Department” means the Santa Clara Pueblo Realty Department.

Y. “Residential Lease” means the residential ground lease or other agreement for use of Pueblo Lands for residential purposes on which a Residential Mortgage has been or may be given.

Z. “Residential Purpose” means for housing purposes.

AA. “Secretary” means the Secretary of the U.S. Department of the Interior or his or her delegee.

BB. “Significant Effects on the Environment” means a substantial, or potentially substantial, adverse change in the environment, including land, air, water, minerals, flora, fauna, ambient noise, cultural areas and objects of historical, cultural or aesthetic significance.

CC. “Sublease” means a written agreement by which a Lessee grants to an individual or entity a right to possession no greater than that held by a Lessee under a Lease.

DD. “Surety” means one who guarantees the performance of another.

EE. “Tribal Council” means the Santa Clara Pueblo Tribal Council, the governing body of the Pueblo.

FF. “Tribal Court” means the Pueblo of Santa Clara Tribal Court.

GG. “Tribal Historic Preservation Officer” or “THPO” means the Santa Clara Pueblo Tribal Historic Preservation Officer.

HH. “Trust or Restricted Land” means lands held in trust or restricted status for the sole benefit of the Pueblo by the United States, and any land title to which is solely held by the Pueblo and which is subject to federal restrictions against alienation.

Sec. 119.2 Applicability

Lease Documents for Business, Residential, or Public Purposes on Pueblo Lands that would otherwise require Secretarial approval may be approved in accordance with the terms of this Code. Nothing herein shall be construed to affect the validity, legality, or term of any Lease Document approved by the Secretary under 25 C.F.R. part 162 prior or subsequent to the effective date of this Code, nor to authorize mineral leases of Pueblo Lands. This Code does not apply to fee lands, fractionated interests, or individually owned Indian lands, or to mineral interests.

Sec. 119.3 Purpose and Interpretation

The purpose of this Code is to simplify and expedite the process for leasing Pueblo Lands for Business, Residential, and Public Purposes. This Code shall be liberally interpreted to accomplish its purpose.

Sec. 119.4 Conflicts with Other Laws

If this Code is determined to conflict with any other law of general application adopted by the Pueblo, this Code shall control.

Sec. 119.5 Applicable Law

Leases approved under this Code are subject to applicable Pueblo and federal laws.

Sec. 119.6 Authority; Effective Date

This Code is enacted by the Tribal Council exercising inherent powers of sovereignty and self-government, through its traditional institutions and by virtue of its Constitution, which was approved on December 20, 1935. This Code shall be effective as of the date of its approval by the Secretary, or his or her authorized designee, pursuant to 25 U.S.C. § 415(h). After Secretarial

approval of this Code, all Leases approved under this Code shall be effective without federal approval under 25 U.S.C. § 415.

Sec. 119.7 Amendment

This Code may be amended at any time pursuant to Pueblo law, provided that all substantive amendments to this Code must be submitted to the Secretary for review and approval, and all such amendments shall be effective as of the date of Secretarial approval.

Sec. 119.8 Lease Administration; Administrative Fees

A. The Realty Department shall administer all Lease Documents subject to this Code. The Realty Department shall employ sound real estate management practices in its activities and responsibilities under this Code.

B. The Realty Department shall charge an administrative fee to cover the expenses of processing a Lease Document.

C. Fee Schedule:

1. Application for a Lease for Residential or Public Purposes - \$50;
2. Amendment, Assignment, Sublease or Leasehold Mortgage for a Lease for Residential or Public Purposes - \$25;
3. Application for a Lease for Business Purposes - \$100;
4. Amendment, Assignment, Sublease or Leasehold Mortgage for a Lease for business purposes - \$50;

Subchapter 2 - Required Lease Terms and Conditions

Sec. 119.9 Lease Term

A. No Lease shall be approved under this Code more than 12 months prior to the commencement of the term of such Lease.

B. Leases for Residential or Public Purposes under this Code may have a total term of up to 75 years, including an initial term and one or more renewal terms.

C. Leases for Business Purposes under this Code may have an initial term up to 25 years, with up to two options to renew for up to 25 years each.

Sec. 119.10 Required Lease Terms

A. All Leases approved under this Code shall be in writing and must identify:

1. the Leased Premises (see Sec. 119.13);

- Premises;
2. the purpose of the Lease and authorized uses of the Leased
 3. the parties to the Lease;
 4. the effective date and the term of the Lease and any option to renew, including the time and manner to exercise any such option, additional consideration for renewal, if any, required notice of renewal to lenders, and whether default restricts exercise of such option;
 5. the ownership of any Improvements on, or to be constructed on, the Premises and the responsibility for constructing, operating, maintaining, and managing Improvements under and in accordance with this Code;
 6. rent, its due date, adjustment(s) to rent, including how, when, and by whom any adjustment will be made, when the adjustment(s) will be effective, how disputes regarding adjustment will be resolved, form of payment and to whom payment is to be made;
 7. late payment charges, interest, and other charges;
 8. due diligence, insurance, and bonding requirements under and in accordance with this Code. 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 such Surety's obligations and liabilities;

B. All Leases must include the following provisions:

1. the obligations of the Lessee and its Sureties to the Pueblo are also enforceable by the United States, so long as the Leased Premises are Pueblo Trust or Restricted Land;
2. there must not be any unlawful conduct, creation of a nuisance, illegal activity, or negligent use or waste of the Leased Premises, and the Leases Premises must be kept free of trash, waste, and releases of hazardous materials;
3. the Lessee must comply with all applicable laws, ordinances, rules, regulations, and other applicable legal requirements;
4. if historic properties, archeological resources, human remains, or other cultural items 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 must cease, and the Lessee must contact the Realty Director and the Tribal Historic Preservation Officer to determine how to proceed;
5. the Secretary, Realty Director, or delegee 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; and

6. the Realty Director may, at his or her discretion, treat as a Lease violation any failure by the Lessee to cooperate with the Realty Director's request to make appropriate records, reports, or information available for the Realty Director's inspection and duplication.

7. if the Leased Premises are within an Indian irrigation project or drainage district, the Lessee must pay all operation and maintenance charges that accrue during the Lease term. The Lessee must pay these amounts to the appropriate office in charge of the irrigation project or drainage district."

C. The Lease must also contain the following provisions, unless the Lessee would be prohibited by law from agreeing to them:

1. that the Lessee holds the United States and the Pueblo harmless from any loss, liability, or damages resulting from the Lessee's use or occupation of the Leased Premises; and

2. that the Lessee indemnifies the United States and the Pueblo against all liabilities or costs relating to the use, handling, treatment, removal, storage, transportation, or disposal of hazardous materials, or the release or discharge of any hazardous material from the Leased Premises that occurs during the Lease term, regardless of fault, with the exception that the Lessee is not required to indemnify the Pueblo for liability or cost arising from the Pueblo's negligence or willful misconduct.

D. The Realty Director may treat any provision of a Lease Document that violates Pueblo law or federal law as being void and shall give notice thereof to the Lessee.

Sec. 119.11 Preference in Employment

A Lease may include a provision requiring the Lessee to give preference to Pueblo Members with respect to employment and contracting on Pueblo Lands.

Sec. 119.12 Improvements

A. Lessee, at Lessee's expense or as otherwise provided in the Lease, may construct Improvements under a Lease if the Lease so specifies, or provides for the development of:

1. a plan that describes the type and location of any Improvements to be built by the Lessee; and

2. a general schedule for construction and completion of the Improvements.

B. All Leases shall require the Lessee to exercise due diligence and use best efforts to complete construction of any Improvements within the schedule specified in the Lease.

C. Lessee shall provide the Realty Department written justification as to the nature of any delay, the anticipated date of construction of the Improvements, and evidence of progress toward commencement of construction.

D. When requested by the Realty Department or otherwise required in the Lease, Lessee shall further provide the Realty Department, in writing, an updated schedule for construction.

E. Failure of the Lessee to comply with these requirements will be deemed a violation of the Lease and may lead to termination of the Lease.

F. Improvements on the Leased Premises shall become the property of the Pueblo unless otherwise provided for in the Lease. If Improvements will be removed, the Lease shall specify, unless waived by the Pueblo, the maximum time allowed for such removal, the Lessee's responsibility for such removal, and the Lessee's obligations to restore and reclaim the property to conditions acceptable to the Pueblo.

Sec. 119.13 Description of Leased Premises

A. The preferred description for the Leased Premises is by reference to a land survey prepared by a professional surveyor licensed by the New Mexico Board of Licensure for Professional Engineers and Professional Surveyors.

B. If the Leased Premises cannot be so described, the Lease must include a legal description, a survey-grade global positioning system description, or both.

C. The description of the Leased Premises must be of sufficient detail to meet recording requirements of LTRO.

Sec. 119.14 Rent and Payment

A. The appropriate rent for a Lease shall be determined by a market analysis, appraisal, or other valuation method, or, when determined by the Tribal Council to be in the best interest of the Pueblo, by negotiation.

B. All rent must be paid to the Pueblo, in care of the Realty Department unless the Lease provides otherwise. The Realty Department shall submit all payments received to the Pueblo's Accounting Department. The Accounting Department shall implement and maintain an accounting system in accordance with generally accepted accounting principles to ensure proper accounting of rent payments, sufficient to enable the Secretary to discharge the U.S. trust responsibility. Upon request by the BIA, the Realty Department shall provide evidence of any such payments received.

C. A Lease may provide for alternative forms of compensation, including but not limited to in-kind consideration and payments based on percentage of income, when determined by the Tribal Council to be in the best interest of the Pueblo.

Sec. 119.15 Performance Bond

A. Lessees or Assignees under a Lease for Residential Purposes are not required to provide a performance bond or other security. For all other Leases, the Realty Department may require a Lessee to file a bond or provide other security, payable to the Pueblo, to ensure or guarantee:

1. payment of rent;
2. construction of any Improvement; or
3. performance of any other obligation under the Lease.

B. A performance bond or other security instrument must require the Surety to provide notice to the Pueblo at least 60 days before canceling a performance bond or other security.

C. The requirement for a performance bond or other security may be waived when Tribal Council determines that waiver is in the best interest of the Pueblo.

Sec. 119.16 Insurance

A. The Realty Department shall require a Lessee to secure and maintain liability and casualty insurance satisfactory to the Realty Department, in amounts sufficient to cover a loss to any Improvement, liability for personal injury or death, and any other risk to which the Pueblo and the United States may be exposed. For any such insurance, the Pueblo and the United States must be additional named insured parties, and Lessee must provide proof of the required insurance to the Department.

B. Each such insurance policy must require the insurance company to provide notice to the Pueblo at least 30 days before canceling the policy.

Sec. 119.17 Subleases; Assignments; Amendments; Leasehold Mortgages

A. Except as otherwise expressly allowed by the terms and conditions of an approved Lease, a Sublease, Assignment, or Amendment shall be valid only if approved by the Tribal Council and executed by the Governor acting under the direction of the Tribal Council.

B. Leases for business purposes may by their express terms authorize Subleases and Assignments, in whole or part, without approval from the Pueblo, provided the following conditions are met:

1. A copy of the Sublease or Assignment is promptly provided to the Realty Department;
2. there is no uncured default under the terms of the Lease or violation of this Code by the Lessee;

3. any limitations and restrictions on the use of the Leased Premises shall apply to any Sublessee or Assignee;

4. the proposed Sublessee or Assignee provides to the Realty Department evidence of financial capacity to perform the Lease in accordance with its terms reasonably satisfactory to the Pueblo; and

5. the Lessee shall continue to be responsible for, and shall not be or be deemed released or relieved from, any of its obligations under the Lease.

C. Leasehold Mortgages shall require approval by the Tribal Council and a written consent executed by the Governor acting under the direction of the Tribal Council.

D. If the lien granted by a Leasehold Mortgage is foreclosed and the approved encumbrancer is the purchaser of the Leasehold, the approved encumbrancer may assign the Lease without approval by the Pueblo, provided that the assignee agrees in writing to be bound by all the terms and conditions of the Lease. If the Lease so provides, the class of such assignees may be limited to Pueblo Members, Pueblo entities or enterprises, or another specified group of potential assignees. If the purchaser of the Leasehold is other than the approved encumbrancer, assignment shall require Tribal Council approval and a written consent executed by the Governor or other Pueblo official acting under the direction of the Tribal Council, and the assignee must agree in writing to be bound by all terms and conditions of the Lease.

Subchapter 3 – Procedure to Obtain a Lease

Sec. 119.18 Application for a Lease

A. A prospective Lessee may apply for a Lease by submitting to the Realty Department an application that at a minimum identifies:

1. the name, address (mail and email), and phone number of the applicant(s);
2. the location of the Pueblo Lands proposed for the Lease;
3. the proposed purpose and duration of the Lease;
4. the planned access to the Pueblo Lands proposed for the Lease;
5. the anticipated use of the Pueblo Lands proposed for the Lease;

and

6. any planned or current use of existing or proposed Improvements on the Pueblo Land proposed for the Lease.

B. Upon receipt of an application for a Lease, the Realty Department may issue a permit to allow the prospective Lessee access to the Pueblo Lands proposed for the Lease to prepare the documentation required by Subchapter 4 of this Code.

C. An application shall be considered complete when the following documents have been provided to the Realty Department:

1. site survey(s) that include the type and location of any existing or proposed Improvements and legal description(s);
2. if applicable, a development plan and construction schedule for proposed Improvements;
3. any financial information the Realty Director deems necessary to determine whether the proposed Lessee can meet the financial obligations of the Lease;
4. documentation that the Environmental Review Process is complete; and
5. any other documents the Realty Director deems necessary.

D. Once the application is complete, the Realty Director shall negotiate with Lessee a Lease that meets the requirements of Subchapter 2 of this Code, and then forward to the Governor's Office the draft Lease, documentation that the Environmental Review Process is complete, and the Realty Director's recommendation whether to approve the Lease, and the Governor shall place the matter on the agenda for an upcoming Tribal Council meeting. The Realty Director may consult with the Pueblo's general counsel as needed on the foregoing duties.

E. Approval of a Lease by the Tribal Council, and the Tribal Council's authorization and direction to the Governor to execute the Lease shall be documented by Tribal Council resolution.

F. Any Lease Document approved by the Tribal Council and executed by the Governor under this Code shall cite this Code as authority for its execution on behalf of the Pueblo.

G. A decision by the Tribal Council not to approve a Lease Document may not be appealed to any forum.

Sec. 119.19 Recordation with LTRO

The Realty Director shall see that all original Lease Documents approved under this Code are submitted to the Southwest Regional Office of the BIA for recording with LTRO, and that copies of recorded documents are maintained in the Realty Office.

Subchapter 4 – Environmental Review Process

Sec. 119.20 Purpose of Environmental Review

The purpose of this Subchapter is to ensure that prior to a Leasing Decision under this Code, a process is followed that:

A. identifies and evaluates any Significant Effects on the Environment of a proposed Leasing Decision;

B. ensures that the Public is informed of, and has a reasonable opportunity to comment on, any environmental impact of the proposed Leasing Decision identified during the environmental review process; and

C. the Pueblo provides responses to timely relevant and substantive public comments on any such impacts before the Pueblo makes a Leasing Decision.

Sec. 119.21 Environmental Review Required; Exceptions

A. The Environmental Reviewer must ensure that a Tribal Environmental and Cultural Report (“TECR”) is prepared for all proposed Leasing Decisions, except those:

1. that will not result in any significant change in use of the Leased Premises or proposed Leased Premises;

2. that are covered by a TECR prepared not more than twenty-four months earlier for a substantially identical use, improvement, development or activity on the same parcel as determined and documented by the Environmental Reviewer;

3. that are covered by an environmental review approved by a federal agency under the National Environmental Policy Act.

B. Where an exception under Subsections A.1, A.2, or A.3 of this Sec. 119.21 applies, the Environmental Reviewer shall confirm the exception in a writing provided to the Realty Director. Upon the Realty Director’s receipt of such writing the Environmental Review Process shall be complete.

Sec. 119.22 Tribal Environmental and Cultural Report.

A. If an exception under Sec. 119.21 does not apply, the Environmental Reviewer shall consult with the THPO to determine the level of review required to prepare a comprehensive draft TECR that analyzes the potentially significant effects of the proposed Leasing Decision on the Environment. The Environmental Reviewer may prepare the TECR or require the Lessee, at Lessee’s expense, to obtain a TECR prepared by qualified and certified professionals. The Environmental Reviewer may require a TECR to meet the standards for review under the National Environmental Policy Act, the National Historic Preservation Act, and regulations issued thereunder.

B. The TECR shall provide detailed information about the Significant Effects on the Environment which the Leasing Decision is likely to have and shall include a detailed statement setting forth all of the following:

1. A description of the physical environmental conditions in the vicinity of the Leased Premises or proposed Lease Premises (the environmental setting and existing baseline conditions), as they exist at the time the TECR is prepared;

2. All Significant Effects on the Environment that are likely to occur as a result of the proposed Leasing Decision, including an explanation of those that cannot be avoided and those that would be irreversible;

3. Any mitigation measures proposed, recommended, or required.

C. The THPO shall prepare a report, or review a TECR obtained by Lessee in accordance with Paragraph A of this Section, in accordance with the THPO's procedures and in conformity with this Section with regard to significant effects on objects or areas of historic, religious, or cultural significance to the Pueblo, and shall provide that report or review to the Environmental Reviewer for inclusion in the TECR, provided that neither the report, the review, nor the TECR shall include the location of, or any geographic information about, such areas, or include any sensitive or confidential information about such areas.

D. Information or data that is relevant to such a TECR that is a matter of public record or that is generally available to the public for inspection at a public place or public building need not be repeated in its entirety in the TECR but may be specifically cited as the source for conclusions stated therein. Such cited information or data shall be briefly described so that its relationship to the TECR is indicated.

Sec. 119.23 Notice of Completion of Draft Tribal Environmental and Cultural Report

A. Within thirty (30) days following the completion of the draft TECR, the Environmental Reviewer shall prepare a Notice of Completion and shall cause a copy of the notice to be published in the community newsletter and in a newspaper of general circulation and to be posted at the Tribal Administration building. If the Pueblo develops a publicly accessible website, a copy shall be posted there also. The Environmental Reviewer shall also provide copies of the draft TECR and Notice Completion to the Governor and to the Lessee.

B. The Notice of Completion shall include:

1. A brief description of the proposed use, improvement, development, or activity;

2. The location of the Leasehold Premises or proposed Leasehold Premises;

3. A summary of the draft TECR;

4. The location where copies of the draft TECR are available at no charge; and

5. An invitation to the Public to submit written comments to the Environmental Reviewer regarding the draft TECR during a comment period of thirty (30) days following publication of the Notice of Completion.

Sec. 119.24 Final Tribal Environmental and Cultural Report

After the thirty-day comment period has ended, the Environmental Reviewer shall consider all written substantive comments timely received from the Public during the comment period and shall prepare a final TECR that incorporates the substantive comments received on the draft TEI and responds to those comments. The Environmental Reviewer shall cause a copy of the final TECR to be published in the community newsletter and in a newspaper of general circulation and posted at the Tribal Administration building. If the Pueblo develops a publicly accessible website, a copy shall be posted there also. The final TECR is not subject to a Public comment period.

Sec. 119.25 Appeal from Final TECR

A. A final TECR may be appealed by a member of the Public or the Lessee by filing a notice of appeal in accordance with Subchapter 6, within 14 calendar days after the final TECR is published as required by Sec. 118.24.

B. If a timely appeal is filed, the Leasing Decision that is the subject of the final TECR shall be stayed until the appeal is resolved.

C. If there is no timely appeal filed, the Environmental Review Process is deemed complete as of the day following the expiration of the time in which to file an appeal.

Subchapter 5 – Lease Enforcement

Sec. 119.26 Enforcement of Leases, Subleases, or Assignments

A. The Realty Department shall enforce the terms and conditions of any Lease approved in accordance with this Code or prior to its enactment, provided that nothing in this Code prohibits the Realty Department from requesting the Secretary to enforce the terms and conditions of, or cancel, any Lease.

B. Leases for residential purposes where there is no Residential Mortgage shall be enforced in accordance with applicable Pueblo law.

Sec. 119.27 Negotiated Remedies

A. A Lease may provide either or both parties with negotiated remedies in the event of a Lease violation, including, but not limited to, the power to terminate the Lease.

B. The parties must notify any Surety or Mortgagee of any violation that may result in termination or cancellation of a Lease.

Sec. 119.28 Notice of Breach and Default

A. The provisions in this Sec. 119.28 shall apply in the absence of default and notice-of-breach provisions in the Lease.

B. A breach of the Lease includes the failure to pay any rent or other monetary obligation due under the Lease, a violation of any term, condition, or covenant of the Lease, or the failure to perform or observe any other obligation under the Lease.

C. A notice of breach must be in writing and delivered to the breaching party by hand, by a national courier, with all fees prepaid, or by registered or certified U.S. mail, return receipt requested, and postage prepaid. A notice shall be effective when received by the breaching party. A notice of breach so delivered shall be effective upon receipt as indicated by the date on the receipt. If a party rejects or otherwise refuses to accept a notice of breach, or if the notice of breach cannot be delivered because of a change in address for which no notice was given, then the notice of breach shall be deemed delivered on the date of such rejection, refusal, or inability to deliver.

D. A party shall be in default under a Lease if a breach of the Lease is not cured within 10 days for non-payment, or 30 days for a non-monetary breach, after the breaching party receives notice of the breach, provided that the cure period for a non-monetary breach may be extended for good cause so long as the breaching party is working diligently toward curing the breach.

Sec. 119.29 Remedies; Notice of Termination

A. On the default of a Lessee, the Realty Department shall have all the remedies as provided in the Lease, and as available at law or in equity, provided that the Realty Department must give notice of termination to Lessee and to any Surety and Mortgagee prior to termination.

B. The notice of termination must: (i) explain the grounds for termination; (ii) notify the Lessee of the amount of any unpaid compensation or late payment or other charges due under the Lease, as applicable; (iii) notify the Lessee of the Lessee's right to appeal under Subchapter 6, including the possibility that the Tribal Court may require the Lessee to post an appeal bond; (iv) order the Lessee to vacate the property within 30 days after the date of receipt of the notice of termination letter, if an appeal is not filed by the end of the 30-day period; and (v) order the Lessee to take any other action the Realty Department deems necessary to protect the Pueblo.

C. A notice of termination must be in writing and delivered by hand, by a national courier, with all fees prepaid, or by registered or certified U.S. mail, return receipt requested, and postage prepaid. A notice shall be effective when received by the Lessee. A notice of termination so delivered shall be effective upon receipt as indicated by the date on the receipt. If a Lessee rejects or otherwise refuses to accept a notice of termination, or if the notice of termination cannot be delivered because of a change in address for which no notice was given, then the notice of termination shall be deemed delivered on the date of such rejection, refusal, or inability to deliver.

D. The Lessee will continue to be responsible for the obligations in the Lease until the Lease expires or is terminated or cancelled.

Sec. 119.30 Harmful or Threatening Activity

If a Lessee or other party causes or threatens to cause immediate and significant harm to the Leased Premises or engages in criminal activity thereon, the Realty Department may take appropriate emergency action in accordance with Pueblo law, including terminating the Lease in accordance with Sec. 119.29, commencing eviction proceedings, bringing an action in forcible entry and detainer, or taking any other action deemed appropriate to protect the health, safety, and welfare of the Pueblo community, the Leased Premises, and the Environment.

Sec. 119.31 Trespass and Holdover

A. If any individual or entity takes possession of or uses Pueblo Lands without a valid Lease Document where a Lease Document is required, the Department may treat the unauthorized possession or use as a trespass and may pursue any remedy available under applicable law.

B. If a Lessee remains in possession of the Leased Premises after termination of the Lease, the Department may treat the continued possession as a holdover tenancy or as a trespass, and if the Department treats the continued possession as a trespass, the Department may pursue any remedy available under applicable law.

Sec. 119.32 Appeal from Notice of Termination

A. Unless an alternative appeals process is provided in the Lease, a Lessee, Surety, or Mortgagee may appeal a notice of termination by filing a notice of appeal in accordance with Subchapter 6, within 30 calendar days after receipt of the notice of termination.

B. If a timely appeal is filed, the termination shall be stayed until the appeal is resolved, subject to the Tribal Court's inherent authority to issue preliminary, interim, or injunctive relief.

C. If there is no timely appeal filed, the termination shall be final.

Subchapter 6 – Appellate Review

Sec. 119.33 Notice of Appeal; Content; Service.

A. An appeal authorized under this Code is initiated by the appellant's filing of a timely notice of appeal with the Tribal Court clerk. The notice of appeal must state the following:

1. the appellant's interest;
2. the facts necessary to understand circumstances giving rise to the appeal;
3. the question to be resolved; and

4. the relief sought.

B. The appellant shall serve the notice by mailing a copy to the director of the Department and the Governor of the Pueblo within five calendar days after the filing of the notice of appeal in the Tribal Court.

Sec. 119.34 Appeal Bond.

Upon the Realty Department's motion, the Tribal Court may require the appellant to file an appeal bond or provide other security in any form and amount necessary to protect the Realty Department and the Pueblo from financial losses.

Sec. 119.35 Procedures

An appeal under this Code shall be in accordance with the Pueblo's Rules of Civil Procedure, except that:

A. all appeals shall be decided by the Tribal Court; there is no right to a jury trial under this Code;

B. the Tribal Court may modify timelines in the Rules of Civil Procedure in order to resolve the matter promptly yet fairly; and

C. the Tribal Court shall review the record and shall affirm a final TECR or a notice of termination of a Lease unless the Tribal Court finds by a preponderance of the evidence that the final TECR or the termination was arbitrary, capricious, or an abuse of discretion, contrary to applicable law, or not supported by substantial evidence in the record.

Sec. 119.36 Judgment

The Tribal Court shall promptly issue a judgment on the appeal.

Sec. 119.37 Appeal from Tribal Court Judgment

Appeals of judgments entered under Sec. 119.36 shall be taken in accordance with the general laws of the Pueblo governing appeals from the Tribal Court.

Sec. 119.38 Limited Waiver of Sovereign Immunity

The Pueblo provides a limited waiver of its sovereign immunity for appeals as provided by this Code, solely as to claims for injunctive relief.