



PUEBLO OF ISLETA RESIDENCE ORDINANCE

ARTICLE I: AUTHORITY

This Ordinance is enacted under authority of and pursuant to Article V, Section 2(e), of the Pueblo of Isleta Constitution, which states:

Subject only to the limitations imposed by the laws of the United States and the restrictions established by this constitution, the powers of the council shall include the following...to enact ordinances, subject to the approval by the Secretary of the Interior, to protect the peace, safety, property, health, and general welfare of the members of the Pueblo of Isleta; and to provide for the removal or exclusion from the lands of the pueblo of any non-member whose presence may be found by the council to be injurious to the peace, safety or welfare of the members of the pueblo.

Pueblo of Isleta Constitution at Article V, Section 2(e).

ARTICLE II: PURPOSE, TRIBAL COUNCIL FINDINGS, AND DEFINITIONS

Section 1. The purpose of this Ordinance is to protect the peace, safety, property, health, and general welfare of the members of the Pueblo of Isleta (hereinafter “Pueblo”).

Section 2. The Tribal Council of the Pueblo hereby finds:

WHEREAS, the Pueblo has and continues to govern the residence of members and non-members who reside within Pueblo of Isleta lands, under its inherent authority of self-government and pursuant to customs and traditions;

WHEREAS, at various times residence requirements of the Pueblo were formalized in writing, including but not limited to the Ordinance of August 20, 1962 (setting forth permission by Governor and Tribal Council for non-members to reside); the Law and Order Code of November 22, 1965 (general law and order provisions); the Ordinance of July 14, 1975 (setting forth process to exclude and remove non-members from Pueblo of Isleta lands); Tribal Council Resolution No. 2006-113 (July 13, 2006) (designating restricted sites) (rescinded and replaced with Tribal Council Resolution No. 2011-041, July 13, 2011); and Tribal Council Resolution No. 2006-114 (July 13, 2006) (designating historic sites and paths) (rescinded and replaced with Tribal Council Resolution No. 2011-042, July 13, 2011).

WHEREAS, governing the residence of members and non-members is an important aspect of protecting the customs and traditions of the Pueblo; and

WHEREAS, the Council of the Pueblo of Isleta finds it is in the best interest of the Pueblo of Isleta to enact an ordinance that will clarify and reaffirm these residence requirements.

Section 3. For purposes of this Ordinance, the following definitions shall apply:

- (a) “**Member**” shall mean an enrolled tribal member of the Pueblo of Isleta.
- (b) “**Member dependent**” shall mean an enrolled tribal member of the Pueblo of Isleta that is under the age of eighteen (18) years, over the age of sixty (60), or is mentally incompetent or physically challenged to the extent of requiring daily care.
- (c) “**Descendant**” shall mean an individual with less than one-half ($\frac{1}{2}$) degree, but at least one-quarter ($\frac{1}{4}$) degree, of Isleta Indian blood, who is not enrolled in any other federally recognized Indian tribe, and who is listed on the Descendant’s Roll maintained by the Pueblo of Isleta.
- (d) “**Non-member**” shall mean an individual who is not a “Member” or a “Descendant”.
- (e) “**Non-Indian**” shall mean an individual who is not a member of a federally recognized Indian tribe.
- (f) “**Pueblo**” shall mean the Pueblo of Isleta.
- (g) “**Days**” shall refer to calendar days.
- (h) “**Pueblo of Isleta lands**” shall mean land that is (a) held in trust by the United States for the benefit of the Pueblo of Isleta, (b) owned in fee by the Pueblo of Isleta, or (c) any other lands which the Pueblo of Isleta’s civil regulatory jurisdiction or authority to exclude a non-member is recognized by federal law.

ARTICLE III: PERMISSION AND CONSENT FOR NON-MEMBERS TO RESIDE

Section 1. No one shall rent, lease or lend buildings, houses or land to non-members of the Pueblo for temporary or permanent use as residence within Pueblo of Isleta lands.

Section 2. Permission to Reside. All members of the Pueblo that plan to reside within Pueblo of Isleta lands with a non-member must first request written permission from the Governor before taking up residence within Pueblo of Isleta lands. The request shall include the address of the proposed residence and other information requested by the Governor. Governor shall utilize a uniform application. The non-member shall submit to a basic criminal background check in a form established by the Governor’s Office and the cost of which shall be borne by the non-member or member. The Governor shall give permission to reside in writing within thirty

(30) days of the request submittal. In the event a conflict of interest exists between the Governor and the requesting member or non-member, Governor's Lieutenant shall decide on the request. In no event shall the non-member take up residence within Pueblo of Isleta lands unless and until permission is granted. The Governor may consult with the War Chief, the War Captains, and others in his discretion when granting permission.

A. If written permission is granted by the Governor, the member and non-member must sign an agreement that they shall respect and abide by the laws, rules, regulations, customs and traditions of the Pueblo, including the provisions in Article V of this Ordinance, and shall consent to the jurisdiction of the Pueblo of Isleta for enforcement of this Ordinance. In the agreement, the member shall accept responsibility for the non-member to respect and abide by the laws, rules, regulations, customs and traditions of the Pueblo. Such agreement shall be renewed every five (5) years. The Governor shall develop and maintain a database identifying all non-members residing on Pueblo of Isleta lands where permission has been granted. Such database shall contain the signed agreements. Any failure of a Pueblo member or the non-member to respect and abide by the laws, rules, regulations, customs and traditions of the Pueblo shall be reported to the Governor, who shall record the failure in the database and exercise enforcement as described in Article VI.

B. If written permission is denied by the Governor, the Governor shall inform the member in writing stating the reason or reasons for the denial. Such denial shall be conveyed within thirty (30) days of the request submittal and shall not be unreasonably withheld.

Section 3. Consent to Reside. All members who currently reside within Pueblo of Isleta lands who are married to a non-member of the Pueblo or who otherwise live with a non-member of the Pueblo and all non-members who currently reside within Pueblo of Isleta lands at the date of enactment of this Ordinance shall, within ninety (90) days of enactment of this Ordinance, request written consent from the Governor to continue to reside within Pueblo of Isleta lands. The non-member applying for consent to reside shall also submit to a basic criminal background check in a form to be established by the Governor's Office. The Governor shall consider prior permission given by a previous Governor or Tribal Council when giving Governor's consent. The Governor may consult with the War Chief, the War Captains, and others in his discretion when granting consent.

A. If written consent is granted by the Governor, the member and non-member must sign an agreement that they shall respect and abide by the laws, rules, regulations, customs and traditions of the Pueblo, including the provisions in Article V of this Ordinance, and shall consent to the jurisdiction of the Pueblo of Isleta for enforcement of this Ordinance. Any failure of a member or the non-member to respect and abide by the laws, rules, regulations, customs and traditions of the Pueblo shall be reported to the Governor for enforcement as described in Article VI.

B. If written consent is denied by the Governor, the Governor shall inform the member in writing, via certified U.S. mail, stating the reason or reasons for the denial. Such denial shall be conveyed within thirty (30) days of the request submittal and shall not be unreasonably withheld.

C. Failure of a non-member to request written consent to reside within ninety (90) days of enactment of this Ordinance shall be subject the non-member to enforcement as described in Article VI of this Ordinance.

Section 4. Permission or consent given by Governor for a non-member to reside within Pueblo of Isleta lands shall not be deemed to convey a property right, a possessory interest right, or Pueblo of Isleta tribal membership status to the non-member, and is subject to revocation by the Pueblo of Isleta. Any revocation of permission or consent by the Governor will afford the member and non-member due process, including notice and an opportunity to be heard, and shall be done according to the laws of the Pueblo of Isleta.

Section 5. In the event of the death of the member, the permission or consent of the Pueblo of Isleta shall be revoked after six (6) months after death. Any non-member who has a member dependent may request consent of the Pueblo to continue to reside within Pueblo of Isleta lands. Such request shall be made according to the procedure in Section 3. The Pueblo of Isleta reserves the right to attach conditions on the consent if given, such as charges for services provided to the non-member or non-member dependent. Such services include water, wastewater, and trash collection and will be charged according to an established fee schedule. In no event shall a life-estate be granted to a non-member by Pueblo of Isleta Tribal Court. In no event shall the non-member who was given consent to continue to reside be allowed to have another non-member reside with him/her within Pueblo of Isleta lands.

Section 6. In the event of the voluntary separation of the member and non-member, the permission or consent of the Pueblo of Isleta shall be automatically revoked. Any non-member who has a member dependent may request consent of the Pueblo to continue to reside within Pueblo of Isleta lands. Such request shall be made according to the procedure in Section 3. The Pueblo of Isleta reserves the right to attach conditions on the consent if given, such as charges for services provided to the non-member or non-member dependent. Such services include water, wastewater, and trash collection and will be charged according to an established fee schedule. In no event shall the non-member who was given consent to continue to reside be allowed to have another non-member reside with him/her within Pueblo of Isleta lands.

Section 7. Notwithstanding the foregoing, the member shall have the right to petition the Governor to revoke permission or consent according to Article VI, Section 1 of this Ordinance.

Section 8. Residence Requirements for Descendants. Any Descendant over the age of eighteen (18) years that plans to reside or plans to continue to reside within Pueblo of Isleta lands must first request written permission or consent from the Governor before taking up or continuing residence within Pueblo of Isleta lands. Permission or consent to reside pursuant to this section shall be granted in the same manner as described in Sections 2 and 3 of this Article.

ARTICLE IV. APPEAL OF GOVERNOR'S DECISION

Section 1. In the event written permission or consent is denied by Governor pursuant to Article III, the member shall be allowed to appeal the decision to Tribal Council by filing a notice of appeal to the Tribal Council President within five (5) days of receipt of the denial required in Article III, Section 3(b).

Section 2. Tribal Council shall hear the appeal within forty-five (45) days of receiving the notice of appeal and at a time and date acceptable to the affected member and Governor, who shall both be present at the appeal. Tribal Council reserves the right to extend the deadline for good cause for no longer than fifteen (15) days after the initial deadline. At the appeal the affected member shall be given an opportunity to be heard and to present witnesses, testimony, and other evidence on his or her behalf. The Governor shall also be given the same opportunity. Tribal Council shall render a written decision within thirty (30) days of the appeal, which shall not be unreasonably withheld. In the event Tribal Council affirms the Governor's denial of consent, such decision shall include a timeframe for the non-member to vacate residing within Pueblo of Isleta lands on a case-by-case basis.

Section 3. The decision by Tribal Council shall be final and not appealable.

ARTICLE V: SPECIAL REQUIREMENTS FOR RESTRICTED SITES

Section 1. Pursuant to Tribal Council Resolution No. 2011-041, non-Indians are not permitted to be on the Restricted Sites described therein. No non-Indian shall be permitted to reside within these Restricted Sites.

Section 2. Pursuant to Tribal Council Resolution No. 2011-042, non-Indians are not permitted to be within the Historic Sites and Paths described therein. No non-Indian shall be permitted to reside within these Historic Sites and Paths.

Section 3. Non-Indians shall not be permitted to reside in the Pueblo of Isleta Village Proper, defined as follows and as depicted in **Exhibit A** of this Ordinance:

Beginning at the northwest corner identified as the point where the BNSF railroad tracks meet State Road 147; thence along said road in a southeasterly direction to a point where the road meets the Isleta Indian Lateral; thence along said lateral in an easterly direction to a point where the lateral meets the Isleta Riverside Drain; thence along said drain in a southeasterly direction to a point where the drain meets State Road 147; thence along said road in a westerly direction to a point where the road meets Tribal Road 33; thence along said road in a westerly direction to a point where the road meets Tribal Road 40; thence along said road in a southerly direction to a point where the road meets the Isleta Drain; thence along the drain in a northwesterly direction to a point where the drain meets the BNSF railroad tracks; thence along the tracks in a northeasterly direction to the point and place of beginning.

ARTICLE VI: ENFORCEMENT

The Pueblo of Isleta shall enforce this Ordinance as follows:

Section 1. Revocation of Permission or Consent. In the event a non-member is alleged to have failed to respect or abide by the laws, rules, regulations, customs and traditions of the Pueblo, the Governor shall revoke the permission or consent of the non-member to reside within Pueblo of Isleta lands. Such revocation will not become final unless and until concurrence is given by Tribal Council at a duly called meeting with quorum present by majority vote. Any revocation of permission or consent by the Governor will afford the member and non-member due process, including notice and an opportunity to be heard, and shall be done according to the laws of the Pueblo of Isleta. Once revocation is final, the Governor shall cause written order to be given to the non-member. Failure to abide by revocation of permission or consent by non-member shall subject the non-member to banishment proceedings according to Pueblo of Isleta law.

Section 2. Violations of Article V. In the event a non-member violates a provision in Article V, the non-member shall immediately cease residing therein and shall be subject to banishment proceedings according to Pueblo of Isleta law.

ARTICLE VII: OTHER PROVISIONS

Section 1. This Ordinance may be amended from time to time by Tribal Council at a duly called meeting with quorum present by majority vote.

Section 2. To the extent that this Ordinance is inconsistent with any prior law of the Pueblo, this Ordinance shall govern and apply, and such conflicting prior law is superseded and repealed.

Section 3. In the event that any provision of this Ordinance is found invalid or unconstitutional, the remaining and unaffected provisions shall remain in force and effect.

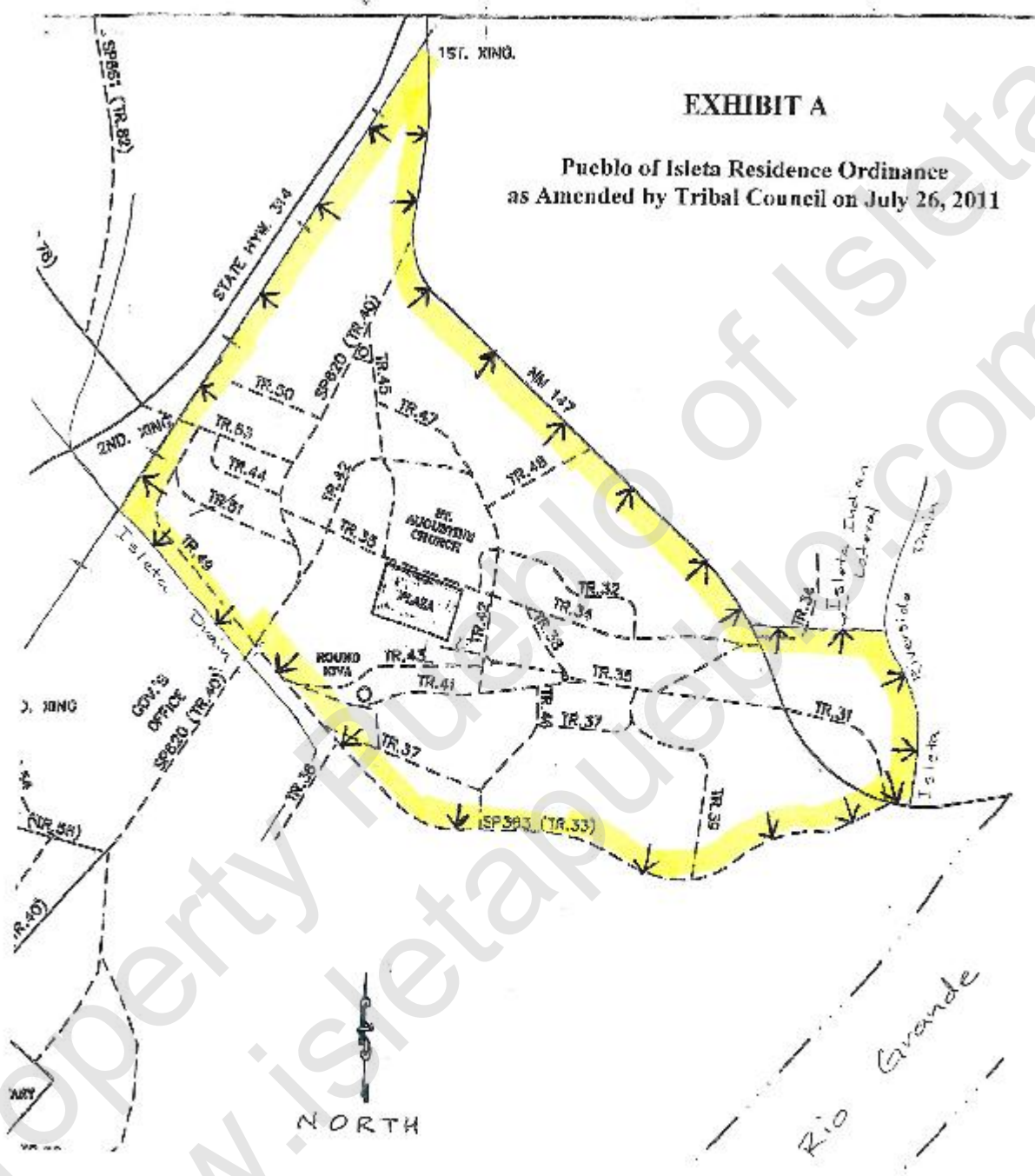


EXHIBIT A

**Pueblo of Isleta Residence Ordinance
as Amended by Tribal Council on July 26, 2011**

Property for sale at Pueblo of Isleta
www.isletapueblo.com