

PUEBLO OF SANTA ANA

PUEBLO OF SANTA ANA TRIBAL COUNCIL

RESOLUTION NO. 11-R-12

Re: Approval of Integrated Solid Waste Management Plan and Adoption of Solid Waste Management Codes

WHEREAS, the Pueblo of Santa Ana (the Pueblo) is a federally recognized Indian nation, possessing inherent sovereign powers of self-government; and

WHEREAS, the Tribal Council of the Pueblo is the duly recognized decision and policy making body for the Pueblo; and

WHEREAS, the Pueblo desires to responsibly manage its solid waste, reduce illegal dumping, and encourage recycling; and

WHEREAS, the Pueblo has worked closely with its contractor and the US Environmental Protection Agency to evaluate the flow of solid waste into the Santa Ana transfer station and to develop an Integrated Solid Waste Management Plan that outlines how the solid waste management program will be structured and how it will function;

NOW THEREFORE BE IT RESOLVED, by the Tribal Council of the Pueblo of Santa Ana that it hereby approves the Integrated Solid Waste Management Plan and adopts the Solid Waste Codes included within the plan; and

BE IT FURTHER RESOLVED, that the effective date of these codes shall be January 1, 2012; and

BE IT FURTHER RESOLVED, that the Department of Natural Resources is charged with implementing and monitoring the solid waste management program; and

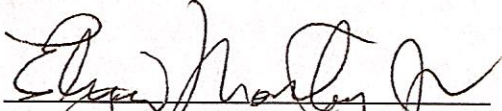
BE IT FURTHER RESOLVED, that in order to carry out the directives of the Tribal Council, the Tribal Administration of the Pueblo is hereby authorized to conduct and perform all functions necessary to accomplish the purposes of this Resolution; and

BE IT FINALLY RESOLVED that the Governor of the Pueblo is hereby authorized and directed to execute all documents necessary to carry out the intent of this Resolution on behalf of the Pueblo.

CERTIFICATION

I, the undersigned, as Governor of the Pueblo of Santa Ana, hereby certify that the Santa Ana Tribal Council, at a duly called meeting that was convened with proper notice and was held on the 21st day of June, 2011, at the Santa Ana Pueblo, New Mexico, a quorum being present, approved the foregoing Resolution with 20 members voting in favor and 0 opposed.

ATTEST:



Eligio Montoya, Jr., Tribal Secretary

GOVERNOR



Lawrence A. Montoya

PUEBLO OF SANTA ANA TRIBAL CODE

TITLE 17 – HEALTH AND ENVIRONMENT

ARTICLE IV – SOLID WASTE MANAGEMENT CODE

CHAPTER I - GENERAL

17-4-1 Title

This Article of the Pueblo of Santa Ana Tribal Code shall be known and cited as the Pueblo of Santa Ana Solid Waste Management Code.

17-4-2 Scope

This Code shall apply to the activities of all persons within the exterior boundaries of the Reservation.

17-4-3 Purpose

The purpose of this Code is to: (1) ensure that efficient, nuisance free and environmentally sound waste management procedures are practiced on the Reservation; and (2) support and encourage recycling efforts throughout the Reservation; in an effort to protect the Reservation environment and the health and welfare of Reservation residents and occupants.

17-4-4 Sovereign Immunity

Nothing in this Code shall be construed as a waiver of the Pueblo's sovereign immunity from suit.

17-4-5. Definitions

- (1) "Animal carcass" means any dead animal or animal remains including pets, livestock, and wildlife. Excludes remains of animals processed for human consumption.
- (2) "Code" means the Pueblo of Santa Ana Solid Waste Management Code.
- (3) "Compost" means the combination of decomposed plant and animal materials and other organic materials that are being decomposed largely through aerobic decomposition (in the presence of oxygen) into a rich, black, organic soil amendment.
- (4) "Dump, deposit or dispose" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that such solid waste or any constituent thereof may enter the environment or be emitted into the air, or discharged into any waters, including surface or ground waters.
- (5) "Electronic waste" means household or office machines that are either operated by electric current or run on batteries that can be recharged. Examples include televisions, DVD players, computers, monitors, mobile phones, iPods and laptops.

- (6) “Garbage” means discarded materials resulting from the handling, processing, storage or consumption of food including putrescible wastes.
- (7) “Green waste” means vegetative matter resulting from landscaping, land maintenance and land clearing operations, including but not limited to, branches, weeds, tree stumps, leaves, plants untreated lumber and agricultural by-products such as corn husks.
- (8) “Hazardous waste” means any waste identified by the Department of Natural Resources as hazardous to human health or the environment or is identified by the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, or the Resource Conservation and Recovery Act of 1976, as either act may be amended from time to time, and by any regulations promulgated thereunder, as being hazardous. Examples of hazardous waste include but are not limited to antifreeze, motor oil, gasoline, diesel, transmission and brake fluids, air conditioning refrigerants, car batteries, fuel additives, pesticides, fertilizers, fungicides, weed killer, bug spray, mouse poison, moth balls, oven cleaner, bleach, drain cleaner, toilet cleaners, tub and tile cleaners, paint and paint thinners, and wood preservatives. Hazardous waste may contain corrosive, toxic, flammable or reactive ingredients that are harmful to human health, domestic animals, wildlife and the environment.
- (9) “Illegal dumping” means disposal of any waste in an unauthorized location. Illegally dumped wastes are disposed of in open areas, along roadsides, and at night to avoid disposal fees and the time and effort required for proper disposal of waste material.
- (10) “Leachate” means a liquid solution that forms as water percolates through solid waste.
- (11) “Litter” means the discarding of any waste or materials, including but not limited to, discarding such waste or materials in areas or receptacles other than those designated for such waste or materials.
- (12) “Municipal solid waste” means non-hazardous solid waste generated from residential, commercial and industrial non-process sources.
- (13) “Nuisance” means a condition that occurs as a result of the handling, treatment, composting or disposal of solid waste, which condition: (1) is injurious to human health or is indecent or offensive to the senses and interferes with the comfortable enjoyment of life or property; and (2) affects an entire community or neighborhood or any considerable number of persons.
- (14) “Open dump” means any area where waste is disposed of without proper controls, including regular application of cover, controlled access to the site, and other environmental controls, including any area for such disposal that does not comply with 40 C.F.R. Part 258.
- (15) “Person” means an individual, association, partnership, corporation, government agency or any entity, including any agent of the foregoing.
- (16) “Premises” means any land, including the improvements thereon.
- (17) “Pueblo” means the Pueblo of Santa Ana.

- (18) “Pueblo Integrated Solid Waste Management Plan” means the compilation and formulation of data and policies for all solid waste collection, handling, transportation, disposal, treatment, storage, recycling, and resource conservation, applicable to the Reservation.
- (19) “Pueblo Transfer Station” means a facility or facilities owned and operated by the Pueblo for the purpose of receiving, collecting, disposing and transporting solid waste and the handling of recyclable materials. An example of a Pueblo Transfer Station is a facility that handles and separates solid waste and recyclable materials in large containers or vehicles for transfer to another facility and includes, but is not limited to, a “convenience center” that accepts solid waste and recyclable materials from the Pueblo community.
- (20) “Putrescible” means the potential for a substance to undergo anaerobic (in the absence of oxygen) decomposition, rotting, and the generation of noxious odors; thereby creating a nuisance or a threat to human health and safety.
- (21) “Recyclable materials” means materials that would otherwise become solid waste if not recycled and that can be collected, separated or processed and placed in use in the form of raw materials, products, or densified-refuse-derived fuels.
- (22) “Recycling” means any process by which recyclable materials are collected, separated or processed and re-used or returned to use in the form of raw materials or products.
- (23) “Reservation” means the land within the exterior boundaries of the Pueblo of Santa Ana.
- (24) “Re-use” means the return of a commodity into the economic stream for use in the same kind of application as before without change in its identity.
- (25) “Sharps” means hypodermic needles, syringes, scalpels, lancets and other sharp instruments used in medical procedures which can harbor infectious waste material. Sharps must be disposed of in accordance with Section 17-4-10.
- (26) “Solid waste” means all waste, garbage, refuse, trash or any other material, including solid, semi-solid, liquid or contained gaseous materials, resulting from residential, commercial, agricultural, industrial, community or other activities.
- (27) “Tribal Council” means the governing body of the Pueblo.
- (28) “Tribal Court” means the Contemporary Court of the Pueblo.
- (29) “Vector” means any insect, arthropod, rodent or other animal capable of transmitting a pathogen from one organism to another, or of disrupting the normal enjoyment of life by adversely affecting the public health and wellbeing.
- (30) “White goods” means, but is not limited to, major appliances, such as washing machines, clothes dryers, water heaters, air conditioners, stoves, dishwashers, freezers and refrigerators.

17-4-6 Prohibited Dumpster Items

The following items are prohibited from being disposed of in any dumpster and must be disposed of in the appropriate containers or designated area at the transfer station:

Hazardous waste
Animal carcasses
Whole scrap tires
Ashes
White goods
Electronic waste

CHAPTER II - DEPARTMENT OF NATURAL RESOURCES

17-4-7 Duties of the Department of Natural Resources

The Department of Natural Resources shall:

- (1) Develop and implement the Pueblo's Integrated Solid Waste Management Plan, subject to the approval of the Tribal Council.
- (2) Apply, when necessary and subject to the approval of the Tribal Council, for private, federal or state grants, funding and financial and technical assistance to implement the Pueblo's Integrated Solid Waste Management Plan.
- (3) Promulgate solid waste management rules and regulations as needed to implement this Code and the Pueblo's Integrated Solid Waste Management Plan, subject to the approval by resolution of the Tribal Council. Such rules and regulations, when approved by the Tribal Council, shall have the force of law on the Reservation.
- (4) Identify and close all open dumps on the Reservation.
- (5) Upon receiving a credible complaint by any person or upon its own initiative, request that Pueblo law enforcement personnel investigate any violations of this Code.
- (6) Implement a recycling and re-use program on the Reservation.

CHAPTER III - STORAGE AND DISPOSAL OF SOLID WASTES

17-4-8 Storage of Solid Waste

- (1) The owner or occupant of any premises shall be responsible for the sanitary storage of all solid waste accumulated at such premises.
- (2) Garbage or municipal solid waste shall be stored in:
 - (a) Durable, rust-resistant, non-absorbent, water tight, animal proof containers.

- (b) All containers shall be maintained in a manner as to prevent the creation of a nuisance, unsafe or unsanitary condition.
- (3) No person shall store hazardous waste at any location except under the following conditions:
 - (a) Small quantities of hazardous waste associated with regular residential or business uses may be stored at any premises for no longer than six months.
 - (b) Any person storing hazardous waste shall take precautions to protect the health, safety and welfare of the residents, occupants, domestic animals, wildlife and environment of the Reservation.
- (4) No person shall leave or permit the accumulation of unused, large bulky items, such as white goods or abandoned, inoperable vehicles or parts thereof in any open and visible location on the Reservation.

17-4-9 Disposal of Solid Waste

- (1) Solid waste shall be disposed of in accordance with this Code in a timely manner to prevent noxious odors and other nuisance conditions.
- (2) No person shall dump, deposit or dispose in any manner, solid waste within the Reservation except at a Pueblo Transfer Station or designated waste receptacle.
- (3) No person shall dump, deposit or dispose of any type of solid waste at a Pueblo Transfer that is not accepted for disposal at a Pueblo Transfer Station.
- (4) Any type of solid waste that is not accepted for disposal at a Pueblo Transfer Station shall be disposed of at a facility outside the boundaries of the Reservation.
- (5) No person shall dump, deposit or dispose of solid waste at a Pueblo Transfer Station except in properly designated areas or containers and in accordance with methods approved by the Pueblo's Integrated Solid Waste Management Plan.
- (6) No person shall dump, deposit or dispose of solid waste generated outside the exterior boundaries of the Reservation anywhere within the boundaries of the Reservation.
- (7) No person shall litter within the Reservation.
- (8) No person shall burn solid waste within the Reservation, except for green waste, which may be burned pursuant to and in accordance with a permit obtained by the Pueblo's Tribal Administration Office.
- (9) No person shall maintain or cause to be maintained an open dump within the Reservation.
- (10) No person shall dispose of any solid waste in a manner that harms the environment, endangers the public health and safety or endangers domestic animals or wildlife.

- (11) Nothing in this Code shall be construed to prohibit persons operating farm or ranch facilities from utilizing livestock waste resulting from normal farming or ranching activities for fertilizing, composting or disposing on a person's land where such use or disposal does not create a nuisance or a public health hazard, does not include hazardous waste or does not otherwise violate Pueblo law.

17-4-10 Disposal of Sharps

All sharps must be disposed of in accordance with the special provisions of this section to prevent the accidental infection of humans associated with improper medical waste disposal.

- (1) No person shall dispose of loose hypodermic needles or sharps in the garbage.
- (2) All sharps must be disposed of in hard plastic or metal containers that are fitted with a screw on cap or tightly secured lid.
- (3) The lid of all containers of sharps must be reinforced with duct tape.
- (4) The container of sharps must be labeled "NOT FOR RECYCLING".
- (5) No person shall dispose of any container holding sharps in a recycling container, area or facility.
- (6) No person shall dispose of sharps in a glass or clear plastic container.
- (7) No person shall flush used hypodermic needles or sharps down the toilet.
- (8) All containers holding sharps must be kept out of the reach of children.

CHAPTER IV - PUEBLO TRANSFER STATION

17-4-11 Operational Requirements

- (1) All Pueblo Transfer Stations shall comply with the operational and any other requirements included in the Pueblo's Integrated Solid Waste Management Plan.
- (2) Signs shall be posted with the hours of operation, the types of solid waste accepted and not accepted and the method of disposal of solid waste at all Pueblo Transfer Stations.
- (3) Pueblo Transfer Stations with permanent operating mechanical equipment must have an attendant on duty whenever the facility is open.
- (4) Pueblo Transfer Stations shall be maintained in a neat and orderly appearance. Blowing litter, insects and other nuisances shall be controlled. The Pueblo Transfer Station and transfer vehicles shall be cleaned to prevent odors and vectors.
- (5) Pueblo Transfer Station floors shall be free from standing water. Disposal of leachate and drainage from cleaning areas and holding tanks shall be in compliance with applicable federal regulations.
- (6) Pueblo Transfer Stations shall have adequate storage space for incoming solid waste.

- (7) Pueblo Transfer Stations shall be equipped with adequate fire protection.
- (8) All solid waste passing through a Pueblo Transfer Station shall be ultimately treated or disposed of outside the exterior boundaries of the Reservation at a facility authorized by the appropriate federal or state governmental agency.

CHAPTER V - RECYCLING

17-4-12 Intent

It is the intent of the Pueblo to encourage the recycling and re-use of goods and materials that otherwise would become land-filled solid waste. The Pueblo encourages all residents to use the recycling center at the Pueblo Transfer Station to the greatest extent possible. The Department of Natural Resources shall implement the recycling program, maintain the recycling center, and obtain funding for future expansion of the recycling center in accordance with the Pueblo's Integrated Solid Waste Management Plan.

17-4-13 Education

The Department of Natural Resources shall develop and implement a recycling education program within the Reservation.

CHAPTER VI - ENFORCEMENT AND PENALTIES

17-4-14 Enforcement

The provisions of this Code shall be enforced by Pueblo law enforcement personnel or other persons designated by the Tribal Council.

17-4-15 Civil Penalty

Any person who violates a provision of this Code may be liable, after a hearing before the Tribal Court, for civil penalties in the amount set forth in the schedule of civil penalties attached hereto and made a part hereof and for any other damages as determined by the Tribal Court. Reasonable punitive damages may be awarded where there has been a willful and knowing violation.

17-4-16 Civil Penalty Assessment

At the time that any person is cited for violating any provision of this Code, the citing officer may give the alleged offender an opportunity to voluntarily pay the civil penalty in the form of a penalty assessment, within ten days to the Tribal Court. The amount of the civil penalty shall be determined in accordance with the schedule of civil penalties. If the penalty assessment is not paid, the citation becomes by law a summons and complaint and requires an appearance in the Tribal Court at the place, date and time indicated on the citation form. Damages for any violations for which a civil penalty is not listed in the schedule of civil penalties shall be determined by the Tribal Court. Any civil penalties assessed and paid by any person due to a violation of this Code shall be placed into the Pueblo's general fund.

17-4-17 Seizure

At the time a citation is issued for a violation of this Code, the officer may seize any equipment used in the commission of the violation for which the citation was given and shall give the person from whom such things were taken an itemized receipt for all such seized items.

17-4-18 Additional Penalties

In addition to the civil penalties imposed by this Code, any person who violates a provision of this Code may be ordered by the Tribal Court to:

- (1) Pay the cost of any necessary clean up, restoration or reclamation caused by the violation and pay any actual damages for injury to property, life or resources of any person.
- (2) Perform community service, upon a showing of financial hardship, in lieu of a civil penalty.
- (3) Pay the attorney's fees and costs incurred by the Pueblo in enforcing this Code.
- (4) Forfeit any seized items pursuant to a court proceeding.

17-4-19 Presumption

Whenever any solid waste or other materials are stored, dumped, deposited, disposed of or discarded in any manner that is in violation of this Code; and

- (1) contain two or more items bearing the name of one individual; or
- (2) the owner of abandoned, inoperable vehicles, white goods and large bulky items is identified by vehicle registration or other means; or
- (3) whenever the owner of a vehicle used in the violation is identified by its license plate or vehicle identification number; it shall be presumed that the individual whose name appears on the items or to whom the vehicle is registered has committed a violation of this Code.

17-4-20 Statute of Limitations

All actions to enforce violations of this Code, shall be commenced within three years after the right of action first accrues.

SCHEDULE OF CIVIL PENALTIES for SOLID WASTE MANAGEMENT CODE

17-4-8 Storage of Solid Waste

17-4-8(1) The owner or occupant of any premises shall be responsible for the sanitary storage of all solid waste accumulated at such premises.

1st Offense	2nd Offense	3rd or more Offense
\$100.00	\$250.00	\$500.00

17-4-8(2) Garbage or municipal solid waste shall be stored in:

- (a) Durable, rust-resistant, non-absorbent, water tight, animal proof containers.
- (b) All containers shall be maintained in a manner as to prevent the creation of a nuisance, unsafe, or unsanitary condition.

1st Offense	2nd Offense	3rd or more Offense
\$100.00	\$250.00	\$500.00

17-4-8(3) No person shall store hazardous waste at any location except under the following conditions:

- (a) Small quantities of hazardous waste associated with regular residential or business uses may be stored at any premises for no longer than six months.
- (b) Any person storing hazardous waste shall take precautions to protect the health, safety and welfare of the residents, occupants, domestic animals, wildlife and environment of the Reservation.

1st Offense	2nd Offense	3rd or more Offense
\$200.00	\$350.00	\$500.00

17-4-8(4) No person shall leave or permit the accumulation of unused, large bulky items, such as white goods or abandoned, inoperable vehicles or parts thereof in any open and visible location on the Reservation.

1st Offense	2nd Offense	3rd or more Offense
\$100.00	\$250.00	\$500.00

17-4-9 Disposal of Solid Waste

17-4-9(1) Solid waste shall be disposed of in accordance with this Code in a timely manner to prevent noxious odors and other nuisance conditions.

1st Offense	2nd Offense	3rd or more Offense
\$100.00	\$250.00	\$500.00

17-4-9(2) No person shall dump, deposit or dispose in any manner, solid waste within the Reservation except at a Pueblo Transfer Station or designated waste receptacle.

1st Offense	2nd Offense	3rd or more Offense
\$100.00	\$250.00	\$500.00

17-4-9(3) No person shall dump, deposit or dispose of any type of solid waste at a Pueblo Transfer Station that is not accepted for disposal at a Pueblo Transfer Station.

1st Offense	2nd Offense	3rd or more Offense
\$100.00	\$250.00	\$500.00

17-4-9(4) Any type of solid waste that is not accepted for disposal at a Pueblo Transfer Station shall be properly disposed of at a facility outside the boundaries of the Reservation.

1st Offense	2nd Offense	3rd or more Offense
\$100.00	\$250.00.	\$500.00

17-4-9(5) No person shall dump, deposit or dispose of solid waste at a Pueblo Transfer Station except in properly designated areas or containers and in accordance with methods approved by the Pueblo's Integrated Solid Waste Management Plan.

1st Offense	2nd Offense	3rd or more Offense
\$100.00	\$250.00	\$500.00

17-4-9(6) No person shall dump, deposit or dispose of solid waste generated outside the exterior boundaries of the Reservation anywhere within the boundaries of the Reservation.

1st Offense	2nd Offense	3rd or more Offense
\$125.00	\$300.00	\$500.00

17-4-9(7) No person shall litter within the Reservation.

1st Offense	2nd Offense	3rd or more Offense
\$100.00	\$250.00	\$500.00

17-4-9(8) No person shall burn solid waste within the Reservation, except for green waste, which may be burned pursuant to and in accordance with a permit obtained from the Pueblo's Tribal Administration Office.

1st Offense	2nd Offense	3rd or more Offense
\$100.00	\$250.00	\$500.00

17-4-9(9) No person shall maintain or cause to be maintained an open dump within the Reservation.

1st Offense	2nd Offense	3rd or more Offense
\$200.00	\$400.00	\$600.00

17-4-9(10) No person shall dispose of any solid waste in a manner that harms the environment, endangers the public health and safety, or endangers domestic animals or wildlife.

1st Offense	2nd Offense	3rd or more Offense
\$100.00	\$250.00	\$500.00

17-4-10 Disposal of Sharps

17-4-10(1) No person shall dispose of loose hypodermic needles or sharps in the garbage.

1st Offense	2nd Offense	3rd or more Offense
\$100.00	\$250.00	\$500.00

17-4-10(2) All sharps must be disposed of in hard plastic or metal containers that are fitted with a screw on cap or tightly secured lid.

1st Offense	2nd Offense	3rd or more Offense
\$100.00	\$250.00	\$500.00

17-4-10(3) The lid of all containers of sharps must be reinforced with duct tape.

1st Offense	2nd Offense	3rd or more Offense
\$100.00	\$200.00	\$300.00

17-4-10(4) The container of sharps must be labeled "NOT FOR RECYCLING".

1st Offense	2nd Offense	3rd or more Offense
\$100.00	\$250.00	\$500.00

17-4-10(5) No person shall dispose of any container holding sharps in a recycling container, area or facility.

1st Offense	2nd Offense	3rd or more Offense
\$100.00	\$250.00	\$500.00

17-4-10(6) No person shall dispose of sharps in a glass or clear plastic container.

1st Offense	2nd Offense	3rd or more Offense
\$100.00	\$250.00	\$500.00

17-4-10(7) No person shall flush used hypodermic needles or sharps down the toilet.

1st Offense	2nd Offense	3rd or more Offense
\$100.00	\$250.00	\$500.00

17-4-10(8) All containers holding sharps must be kept out of the reach of children.

1st Offense	2nd Offense	3rd or more Offense
\$100.00	\$250.00	\$500.00

The civil penalties provided herein are in addition to any other penalties, costs or other remedies provided in the Code.